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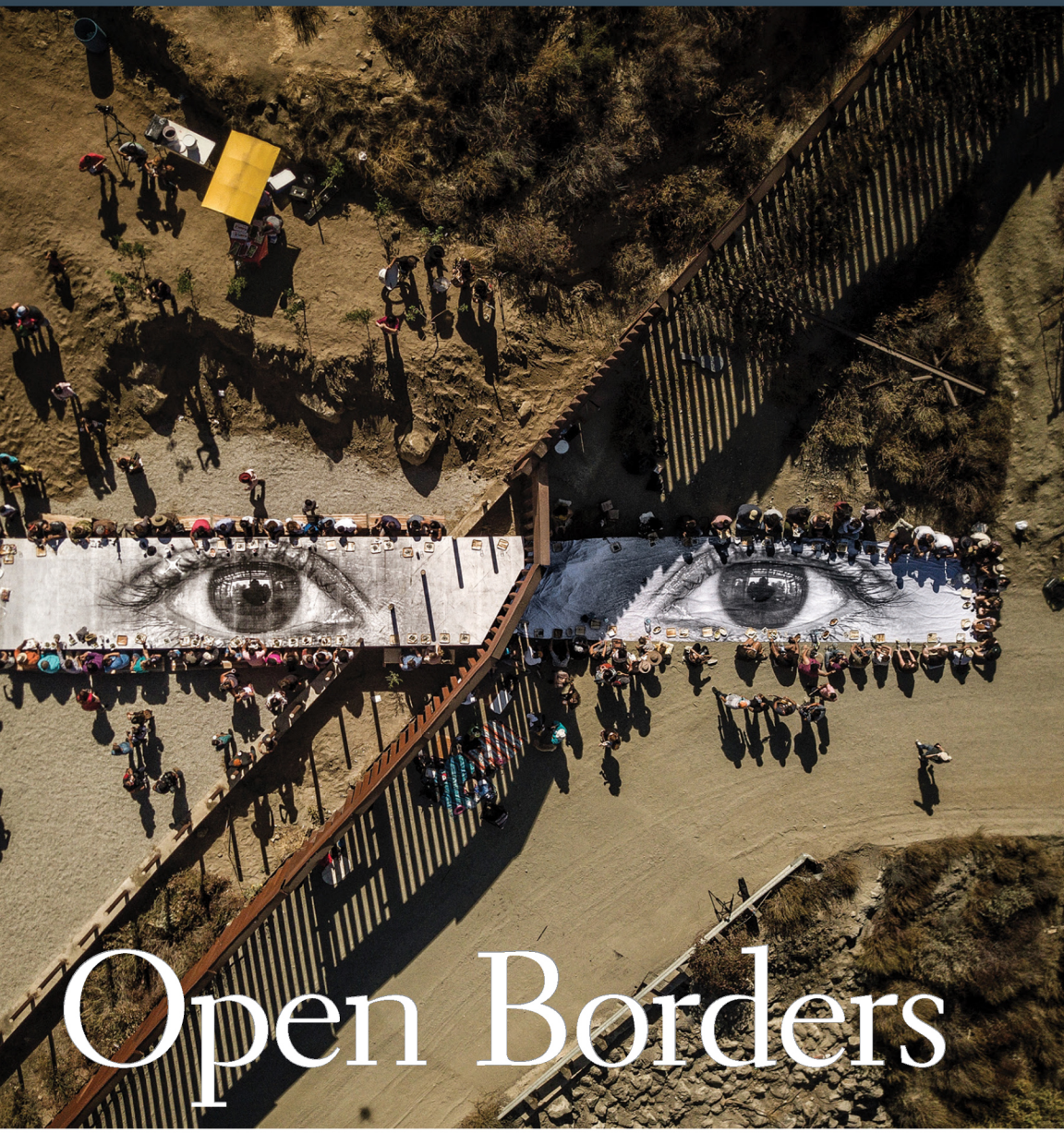

Open Borders

IN DEFENSE OF FREE MOVEMENT

EDITED BY REECE JONES

VISIT…

Open Borders

GEOGRAPHIES OF JUSTICE AND SOCIAL TRANSFORMATION

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EDITED BY

REECE JONES

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Open Borders

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INTRODUCTION

REECE JONES

One of the realities of being the child of a professor who studies borders is that vacation often has a different meaning than it does for other children. Past vacations for my kids have included an hour spent worrying that their toys were being taken away while Israeli border guards thoroughly searched our car at a checkpoint in Palestine, and trying to understand why young boys were climbing inside the engine of our bus as they attempted to stow away at the ferry terminal between Morocco and Spain. In July 2016, my son found himself looking at the Pacific Ocean at Border Field State Park, south of San Diego, California, where the United States' fence on the Mexican border continues down a hill, onto the beach, and out into the surf.

The site is also known as Friendship Park, in a nod to a different era of relations between the United States and Mexico. It was opened in 1971 by then First Lady Pat Nixon, who gave a speech, planted a tree, and shook hands with Mexicans across the border—a scene that is almost impossible to imagine today.[1] The first lady was surprised when she arrived to see a small barbed-wire fence on the border and during her comments said, "May there never be a wall between these two great nations, only friendship."[2] The substantial fence that marks the border today was built in the mid-1990s. The tree she planted at the ceremony was removed during the construction of a secondary border fence at the site in 2009, which also led to the temporary closure of the park.

Friendship Park is the only officially sanctioned location on the border where people are allowed to meet, join hands through the fence, and talk with each other. Originally it was open every day, but as security has increased, the Border Patrol has limited the cross-border meetings to the hours of ten in the morning to two in the afternoon Saturdays. On all other days, including the Friday we visited, the park is deserted and the Border Patrol keeps visitors on the US side about fifteen feet from the fence. People on the Mexican side still regularly walk up to it, peer through it, and wave.

FIGURE INT.1. The US border fence at Border Field State Park, south of San Diego, California. Photo by the author.

It was a pleasant July morning, but we were all alone on the beach on the US side, except for a Border Patrol agent who sat in his truck watching our every move from about thirty feet away. At first my son was apprehensive, looking at the truck and the fence that marred the otherwise beautiful beach, but after a few minutes he got over it. The ocean was calling and there were perfectly shaped rocks for skipping. The wall and the Border Patrol truck faded into the background as a natural part of this landscape. We spent an hour splashing in the waves, and he did not want to leave.

What troubled me was how quickly the fence and the security apparatus became a natural and unremarkable part of the experience. The normalization of the fence is emblematic of the widespread acceptance of the idea of borders and migration controls in the world today. Most people do not question that countries should have the right to decide who can cross borders and enter their territory. As Joseph Carens puts it, "Discretionary control over immigration is a deep injustice that does not seem unjust to most people today."[3] Studies suggest only 10 percent of the world's population favor completely open borders.[4] Borders are a taken-for-granted part of the world and often are perceived to be the legitimate edges of the homelands of nations of people, where they have the collective right to control access to their land and prevent the movement of others. Borders are depicted on maps, are taught to us in schools, and shape the way we think about the world. Indeed, it is hard to visualize the world without the lines of countries etched onto it. However, just as the seemingly permanent wall at the US-Mexico border is only a few decades old, borders are not a natural part of the world. They are recent political inventions to control resources, land, and people.

There are growing criticisms of borders and migration restrictions. In 2016, Jean-Claude Juncker, the president of the European Union, said that "borders are the worst invention ever made by politicians."[5] The contributors to this book agree. The goal of this volume is to denaturalize movement restrictions at borders by questioning their necessity and demonstrating how they damage people and the environment.

It might seem idealistic or naïve to write a book about open borders in 2019.[6] While in the 1990s, after the fall of the Berlin Wall, the collapse of the Soviet Union, the creation of the North American Free Trade Agreement (NAFTA), and the removal of border checkpoints in Europe, the idea of a borderless world seemed momentarily possible, today it is certainly in retreat. Just as Friendship Park has become a securitized space, over the past twenty years countries around the world have expanded border security practices, built new walls, and implemented strict visa and passport regimes. When the Berlin Wall crumbled in 1989 there were fifteen border walls around the world; today almost seventy mark the edges of states.[7] In 2015, Austria, Bulgaria, Estonia, Hungary, Morocco, Saudi Arabia, Slovenia, and Tunisia made plans or built walls on their borders. In 2016, even Norway built a border wall. Moreover, countries are investing in more border guards, more sophisticated surveillance technologies, and more detention facilities to hold unwanted migrants. The hardening of borders means that migrants are forced to take ever more dangerous routes to find safety and better opportunities.[8] Globally, according to the International Organization for Migration, an estimated forty thousand people died attempting to cross a border from 2006 to 2015. The gruesome rate is increasing, with over eight thousand dead or missing at borders in 2016.[9]

Beyond the hardening of borders to movement, the idea of free trade across borders has also faced withering scrutiny in recent years, with isolationist sentiments driving the Brexit vote for the United Kingdom to leave the European Union and the emergence of Donald Trump during the presidential campaign in the United States. Although Trump's campaign was mocked in the media for its incoherence and unpredictability, its core argument was well formed by what I term the "closed border position." Trump's two consistent positions against migration and free trade agreements share this protectionist ideology that locates the source of the United States' problems in the free movement of people and goods across borders. In his announcement speech in June 2015, he said, "When Mexico sends its people, they're not sending their best. They're not sending you. They're not sending you. They're sending people that have lots of problems, and they're bringing those problems with us [*sic*]. They're bringing drugs. They're bringing crime. They're rapists. And some, I assume, are good people."[10] To the surprise of many, the anti-migrant rhetoric did not sink his campaign but rather vaulted him to the presidency. In his first year in office he started to make good on these promises with executive orders that authorized an extension of the wall

on the Mexican border, banned refugees and migrants from seven, then six, majority-Muslim countries, withdrew the United States from the Trans-Pacific Partnership, and renegotiated NAFTA. Trump was a closed border candidate who captured the zeitgeist of the moment.

The rise of Donald Trump mirrored a surge in anti-migrant and protectionist nationalism around the world that also adhered to the closed border position. As the largest movement of people in history occurs, politicians have fanned fears of the threat of migrants. In France, the National Front party has an anti-immigration platform and has been increasingly successful in the polls. The party's leader, Marine Le Pen, compared migrants to barbarian invasions, saying, "Without any action, this migratory influx will be like the barbarian invasion of the fourth century, and the consequences will be the same."[11] The United Kingdom voted to leave the European Union, driven by a desire to reinstate sovereignty over decisions and to slow migration. Even in traditionally migrant-friendly Scandinavia, anti-migrant political parties are gaining supporters and power. In Sweden, the anti-migrant Sweden Democrats have seen substantial growth in support in polls by arguing that Sweden's willingness to accept refugees is transforming the character of the country. In Denmark, the anti-migrant Danish People's Party surged to unexpected second place in the June 2015 elections by calling for reinstituting border checkpoints, reducing aid for asylum seekers, and protecting spending on social programs for Danish citizens.

Open Borders: In Defense of Free Movement emerges out of both a feeling of frustration and a sense that there is a window of opportunity. The frustration is with how countries around the world are dealing with the movement of people across borders. Rather than opening borders and providing compassion to other human beings in need, countries have instead closed their borders, which has resulted in thousands of unnecessary deaths. The dream of moving to a new home was lost for many as their unseaworthy ships sank, they were held hostage by smugglers, or they were arrested and held in detention facilities even if they reached their destination.

Despite our frustration with anti-migrant nationalism and violence at borders, we feel that there is a window of opportunity to change the public perception of borders while the world community and media are focused on this issue. After President Trump signed executive orders in January 2017 authorizing more walls on the Mexico border and banning refugees and migrants from several predominately Muslim countries, spontaneous protests began in the United States and around the world with the chant of "No Ban No Wall!" Indeed, as noted above, even the president of the European Union called borders the "worst invention" in 2016.

Open Borders counters the knee-jerk reaction to build walls and close borders by arguing that there is not a moral, legal, philosophical, or economic case for

limiting the movement of human beings at borders. The book brings together theorists for open borders with activists working to make safe passage a reality on the ground to put forward a clear, concise, and convincing case for a world without movement restrictions at borders.

Considering the Closed Border Position

Although most scholars who study borders and migration are critical of the violence and the exclusion they represent, a number argue in favor of the status quo position that states have the right to restrict migration at their borders. This section considers and critiques these arguments for migration controls.

The closed border argument rests on a foundation that assumes that states have a legitimate right to control territory and an obligation to protect the interests of their citizens above those of noncitizens. It is taken for granted today that the world is divided into countries, that those countries have the right to institute laws and use resources in their territories, and that those territories are defined by borders. As US president Donald Trump has said multiple times, "We don't have a country if we don't have borders."[12] The global political system is predicated on the existence of states with defined borders and territories. The charter of the United Nations codifies this system and requires each member state to recognize and respect the borders and territorial integrity of all the other states:

> 4: All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.
>
> 7: Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.[13]

Although the UN is often thought of as a global government, these clauses ensure that its main function is to protect the state as the primary unit of political authority in the world. Rather than superseding the state, the UN reinforces it and operates to govern interactions between states.

States have wide authority to establish and enforce laws through violent means. With a few exceptions in the area of crimes against humanity, genocide, and state-sponsored terrorism, the UN has little influence over the rest of the decisions that apply to the internal affairs of the state. The result is wide variation in what is legal and illegal in different countries, as Michael Huemer details

in chapter 2 in his discussion of the distinction between *malum in se* (wrong in itself) and *malum prohibitum* (wrong because it is prohibited). Alcohol is banned in some countries but flows freely in others. In some countries women can vote, own property, and drive a car, while all are prohibited in others. In some countries homosexuality is protected from discrimination, in others it warrants the death penalty.

All of the arguments in favor of movement restrictions at borders rest on the assumption that states should have the right to make decisions on who can enter their territory as part of their sovereignty. Based on this right, there are many different arguments for why it is desirable for states to limit migration at borders: (1) states have a right, or even obligation, to protect the economic well-being of their citizens, (2) states have a right to protect the culture and way of life of their citizens, (3) states have a right to *not* take on the responsibility to protect others, and (4) states have an obligation not to damage other states (for example, through a brain drain of their highly skilled workers).[14]

ECONOMIC CRITIQUES OF MIGRATION

The most often repeated concern about migration is that it will affect the wages and job opportunities of workers in receiving countries. There is a commonsense feel to the fear: if a country already has unemployed citizens, why should the government allow more workers to come? Critics of migration focus on wages at the bottom of the income scale where low-skilled native workers could potentially lose their jobs to others who are willing to work for less.

The good news is that these seemingly commonsense concerns are not supported by the data. Even critics of migration, such as George Borjas, agree that the overall impact of in-migration is positive for the economy of the receiving state.[15] However, Borjas has claimed that the 1965 immigration reforms in the United States had negative impacts on the poor because the law includes a preference for family reunification at the expense of skilled migrants, which he argues dragged down wages.[16] This claim, however, has been tested by other scholars, such as David Card and Michael Clemens, who have demonstrated that the decline in wages identified by Borjas was due to a different sampling method that included more low-wage workers, not to a decline in actual wages.[17] Nevertheless, Borjas's work is still cited by anti-migrant politicians, such as White House advisor Stephen Miller, because it is the only source they have, even if it has been disproved.[18]

In his book, Borjas also emphasizes the difference between workers and people, implying that economists who discuss the benefits of migration consider migration only in terms of labor and ignore the impact migrants have on culture and services. Another critic of migration, David Miller, suggests mass migration is incompatible with a welfare state because migrants will exploit public

assistance through programs like food aid, public housing, and unemployment benefits, without having properly contributed to these programs.[19]

The problem with these seemingly commonsense economic critiques of migration is that the evidence is thin and most data do not support the arguments, as Card and Clemens showed with Borjas's work. One questionable assumption is that migrant workers are applying for the same jobs as the native-born population. A study of 2013 occupational data by Maria Enchautegui of the Urban Institute demonstrated that less educated migrant workers and native workers found jobs in different sectors of the economy. Migrant workers tended to be in fields that required less-advanced language skills: the top three were maid/housekeeper, cook, and farm worker. By contrast, native, less-educated workers found employment in service-oriented jobs: cashiers, drivers, and janitors topped the list.[20] For the economy overall, migration has a positive effect, and Gihoon Hong and John McLaren found that migrants, on average, create 1.2 additional jobs beyond the job that they perform.[21] This is because they rent an apartment, buy a car, and frequent local shops, restaurants, and supermarkets. The fear that they will take services is also not supported by the data, which show that many undocumented workers pay into these programs without ever being able to access the benefits due to their status.

Harald Bauder argues that the current system of unequal status does push wages down, not because more workers flood the labor market, but because "migrant and immigrant workers are valuable because they are vulnerable."[22] Bauder shows that for capital, the purpose of borders is not always to keep people out but to limit their access to protections. Undocumented workers are less likely to complain about poor working conditions, low wages, or injuries caused by dangerous jobs because they risk losing their job or even being deported if they speak up.

Even if Borjas's discredited claim that migration suppresses wages in the lowest income brackets were true, it would still represent a net positive for the entire economy and a positive for all other income brackets. Consequently, the banning of poor migrants is a disproportionate response that harms the majority of citizens in wealthy countries who would be better off with more migrants.[23] If the primary concern were the wage depression of the poorest citizens, a better solution would be open borders and targeted aid to those small groups of citizens who are (possibly) affected, as well as vulnerable migrants who could still be subject to exploitation.

A second economic argument against migration is that migration and diversity are correlated with a backlash against assistance programs for the poor. Stephen Macedo writes, "There is some evidence that the feelings of solidarity and mutual identification that help support social justice can be undermined by the increased racial and ethnic heterogeneity associated with immigration."[24] In his provocatively titled book *Strangers in Our Midst*, David Miller makes the

same point: "There is evidence, unfortunately, that as societies become more diverse, ethnically or culturally, levels of trust tend to decline."[25] Miller claims countries often have to choose between supporting poor citizens or assisting poor migrants, who for him are better aided through development work in their home countries. For Macedo as well, there is not an inherent conflict to helping the poor at home and helping others abroad, just different levels of obligation.

Although this argument is often made by authors like Miller who are perceived to be well within the scholarly mainstream, it has the effect of normalizing the exclusionary language of the far right. Beginning with the idea that people are "strangers" in "our" midst, Miller's argument is rooted in fear and distrust of others. Furthermore, it legitimizes racism by suggesting that different people should be barred from a society because, apparently, some people already in the United States and Europe display racist tendencies and do not want to support the poor if they are different. The solution is not to bow to racist elements by providing the society they want, but to root out those underlying racist beliefs as unacceptable. The problem is the racism, not the diversity.

Other "closed border" scholars acknowledge that the poor of the world are oppressed and economic inequality is a significant problem, but they suggest that the evidence does not demonstrate that migration restrictions are the cause of the harm. They ask whether it is possible to disaggregate the effect of migration restrictions from economic meddling, corporate exploitation, and corruption that damages the lives of people in poorer countries. Higgins also points out that the cost-benefit analysis of migration cannot overlook the negative impact migration might have on sending countries.[26] It is often the middle and upper classes who are able to migrate, and the potential result is a brain drain where the sending countries are left with poorer, less skilled populations. Scholars who are critical of migration ask how the benefits to some who move can be weighed against the harm it might do to the many who do not.

These arguments are hard to test without allowing open borders, but the opening of internal borders in the EU provides some evidence. The data suggest that as EU internal borders were opened as part of the Schengen Agreement, there was an initial increase in migration, but that migration lessened over time. Additionally, the fear that outmigration could harm the economies of sending countries is not supported by data from the EU. Instead, Dane Davis and Thomas Gift argue that open labor migration also had positive impacts on trade between member states.[27] There also is some evidence that migration benefits sending countries as well by relieving the burden of a growing population and by establishing remittance networks that funnel wealth back.

Beyond the local and national positive economic impacts of migration, economic models suggest that open borders could have an enormous positive impact on gross domestic product (GDP) worldwide. Bryan Caplan and Vipul Naik say that "unrestricted migration would roughly double global GDP, with estimates

of the gain ranging from +67% to +147%."[28] Even critics like Borjas acknowledge these data: "The removal of immigration restrictions would indeed lead to a huge increase in GDP: global wealth would increase by $40 trillion—almost a 60% rise. Moreover, the gain would accrue *each year* after the restrictions were removed."[29] However, Borjas rightly questions whether these estimates are realistic because they would require massive levels of migration from poorer countries to wealthy ones.

How many people would actually move if borders were open? In 2017, approximately 250 million people lived outside their country of birth. A 2011 Gallop survey found that an additional 14 percent of the world's population, 600 million people at the time, would like to move to another country.[30] Some places would potentially have the massive movements necessary to achieve the predicted GDP growth. For example, Haiti would likely lose half its population, and the United States might gain 60 percent more.[31] These numbers may alarm some, but the migrations would happen over years, or even decades. Furthermore, they would represent less than the rate of population growth in the United States in the late nineteenth century through migration. Thirty million people from Europe arrived in the United States between 1815 and 1915. At the beginning of that era, in 1815, the US population was only 8.5 million.

In other parts of the world, the changes would be much more modest. Many people would not move because they are happy where they live and want to remain in their ancestral home. Additionally, as some people move, wages would begin to stabilize globally with increases in poor countries as local labor forces declined.

In reality, however, all of these models are conjecture. The best way to determine the impact of open borders would be to allow free movement, though perhaps in a scaled or temporary manner to slowly test the impacts.

CULTURAL AND POLITICAL IMPACTS OF MIGRATION

The second group of arguments against migration focuses on the potential cultural or political impacts if new people retain their current beliefs without assimilating to the receiving country's culture. These concerns revolve around language, but there is also an argument that migration is a threat to the institutions of the state that guarantee freedoms of speech, democracy, and good governance. Michael Walzer argues that a core facet of a national group is the right to decide with whom they associate.[32] Other scholars who argue for the necessity of borders feel strongly that the world is partitioned into distinct groups of people, often termed nations, and that these different peoples have fundamentally different cultural practices, religious beliefs, and ways of life. From this perspective, borders are natural because they mark the lines where these different groups legitimately exist and, by extension, are the points where they have the right to restrict movement to protect their ways of life from other people who have different views and beliefs.[33]

Some closed border scholars argue that arbitrary and misplaced borders cause damage, but they use this evidence to draw very different conclusions than scholars who question the necessity of borders. While border critics cite the legacies of colonial borders in Africa and the Middle East as examples of how external divisions cause conflict and divide peoples who should be able to move freely, closed border scholars use these same examples to point to the dangers of forcing different groups of people, with conflicting values and beliefs, into the same political space. From this perspective, the problem is not the borders themselves but their incorrect placement. These scholars see the multiethnic and religious states of Syria and Iraq and multiethnic empires such as the Ottoman and Austro-Hungarian Empires as failures because they forced fundamentally distinct peoples into the same state. Closed border scholars argue that some borders could be open, but only if the people on both sides are generally similar in terms of wealth, culture, and governance practices. To them, this is why a relatively open border between Canada and the United States works but such an arrangement between the United States and Mexico would not.

The underlying point is that the United States, Europe, and other wealthy countries need to protect the societies they have created from the threats posed by different belief systems. Mark D. Friedman explains the concern:

> Would unregulated immigration imperil or degrade the rule of law here? I believe that it is plausible to think so. Mexico, the source of most of our existing illegal immigration, cannot be said to enjoy the rule of law to this day. There is massive corruption and a great concentration of economic power through crony capitalism that is incompatible with this ideal. While it may be politically incorrect to say so, due to historical developments the political culture in Mexico is substantially different than our own. But Mexico is a virtual utopia in this regard when compared to many other parts of the world, where the state (with the full support of the populace) executes people for blasphemy and sorcery, and freedom of religion and conscience do not exist. . . . They may seek economic opportunity, but they would also bring their intolerance and backwardness with them, just as they would retain other elements of their culture.[34]

Victor Davis Hanson, senior fellow in classics and military history at the Hoover Institution at Stanford, echoes these fears: "Western rules that promote a greater likelihood of consensual government, personal freedom, religious tolerance, transparency, rationalism, an independent judiciary, free-market capitalism, and the protection of private property combine to offer the individual a level of prosperity, freedom, and personal security rarely enjoyed" by people in less developed states.[35] Consequently borders are necessary to maintain these advances in civilization.

What is lacking is any evidence that migrants would actually change these practices, that their home countries lack rules, and that if they do, their lack of

development is due to different or missing rules. The claims that migrants bring different cultural beliefs that threaten the way of life of receiving countries have been around for centuries. In the nineteenth-century United States, the fear was that Italian, Irish, and Catholic migrants would not assimilate. Later it was Asian, communist, and Mexican migrants. Today, the fear is that Muslims will bring a different set of beliefs. In each era, there is a narrative of invasion that evokes feelings of group membership, that "our" way of life is threatened by "them."[36] The history of integration and dynamism brought by these previous migrants suggests that the current fears are rooted more in racism and nationalism, just as early anti-migrant sentiments, highlighted by the Chinese Exclusion Act of 1882, are understood to have been. Consequently, until there is evidence that new migrants are trying to change the political system in liberal societies, there is no justification to limit migration on these grounds.

Similarly, the claim that migrants bring higher crime rates is also not borne out by the evidence. Donald Trump regularly paraded victims of "illegal immigrant" crime at his campaign rallies and even invited them to be his guests at his first presidential address to Congress, but the data have consistently shown that migrants are less likely to commit crimes than native-born people. For example, one study found that 3 percent of migrants without a college degree are in jail, while the corresponding figure is 11 percent for the native-born population without a college degree.[37] However, as Jenna Loyd argues in chapter 6, there is a danger in conforming to the "good immigrant" narrative, which gives the state the right to exclude those categorized as bad.

Another political argument against open borders is put forth by Michael Blake, who argues that states have the right to avoid becoming "the agent charged with the defense of another's human rights."[38] His argument for movement restrictions is similar to Walzer's and rests on the claim that humans also have a right to free association and that states are equivalent to a private club that can choose its members: "The argument has the virtue of comparative simplicity; it begins with the fact that individuals have the right to freely associate with others of their own choosing. To this, we add the fact that this right entails the right to be free from associating with unwanted others; my right to freedom of association is undermined if I am unable to choose those with whom I will exercise that freedom."[39] Essentially, Blake argues that borders allow one group of people to decide whom they want to be with; open borders would force people to take responsibility for others without their agreement to associate with them.

The first problem with this argument is that birthright citizenship does not allow choice of group members but is conferred through a system of place-based citizenship, with everyone required to be a member of at least one state. You do not have to be a member of any clubs. Michael Huemer has expanded on the differences between a state and a private club, pointing out that states provide important services but very unevenly, so exclusion from a state can have signif-

icant negative impacts in a way that exclusion from a club does not.[40] Furthermore, exclusion from a state also prevents individuals from accessing a whole series of interactions, from employment to educational opportunities. Exclusion from a private club does not preclude access to these other opportunities in society. Therefore, the analogy that states can exclude people like a club is not an apt one.

THE ETHICAL AND MORAL ARGUMENTS

None of the arguments for closed borders are based on data and evidence but instead rely more on fear of potential changes to economic or cultural life. However, the position collapses completely when the morality of border restrictions is considered. Joseph Carens suggests that democratic states share a series of values that obligate them to treat migrants the same as citizens, unless the state can show clear and significant reasons not to, emphasizing that this is not a state-by-state decision, but a moral decision that crosses borders.[41] He argues that there is a universal moral obligation to treat migrants the same as citizens based on the logic that (1) there is not a natural social order, (2) all humans are of equal worth, and (3) if there are restrictions on the freedom of other humans, there must be a moral justification for those limits: "We have to appeal to principles and arguments that take everyone's interests into account or that explain why the social arrangements are reasonable and fair to everyone who is subject to them."[42] He argues that none of the above justifications for movement restrictions rise to that level.

Carens bases his argument on the fact that freedom of opportunity requires freedom of movement. "The control that democratic states exercise over immigration plays a crucial role in maintaining unjust global inequalities and in limiting human freedom unjustly."[43] For Carens, this does not mean no borders and no states but simply freedom of movement between states, except under exceptional circumstances: "In the context of this dispute over the cause of and cures for global inequality, arguing for open borders draws attention to the fact that at least some of the people who are poor remain poor because we will not let them in. We use coercion every day to prevent people from achieving a better life. We cannot evade our responsibility for that."[44] In sum, the arguments against free movement rely on partial or inaccurate data or on selective reading of the constitutions of receiving countries. Probably the biggest flaw in the closed border arguments is that they suggest many negative consequences of migration, but always in an untestable way. The only way to know whether these dire prediction would come to pass is to open borders and see. If there are huge economic impacts on the poor of receiving countries or if the culture of democracy is threatened, then border restrictions could always be reinstituted. However, the contributors to this book do not foresee these problems but argue there is a moral and ethical obligation to allow free movement.

The Argument of the Book

Open Borders: In Defense of Free Movement challenges reactionary nationalism by making the positive case for the benefits of free movement for countries on both ends of the exchange. The purpose of this book is simultaneously narrowly defined and, at least to some, wildly ambitious. The argument, however, is very simple: movement is a fundamental human right, and the right to move freely should be protected at the global level.

While some of the contributors to this book approach the world from a point of view that suggests that most forms of state power are coercive and hierarchical, and therefore undesirable, the primary purpose of this book is not to challenge the primacy of the state as a political unit of authority.[45] Instead, the goal here is to focus specifically on the right to move freely between states, and the chapters in this book collectively question the legitimacy and necessity of state authority over migration. The claim is not that opening borders would solve every problem or necessarily result in all of the wealth gains predicted by some economists. But opening borders would reduce deaths at borders and allow people to exercise what we believe should be a fundamental human right: the right to move.

The idea of movement as a human right is not new. As soon as humans began to divide up the land of the world into separate political spaces, others questioned the legitimacy of these divisions. In *On Exile*, written around A.D. 100, Plutarch describes many Greek thinkers as against states, saying "for by nature there is no such thing as a native land, any more than there is by nature a house or farm or forge or surgery." Later he writes that Socrates denied that he was Athenian or Greek but rather termed himself a "Cosmian," a citizen of the cosmos. Plutarch agrees and sees the edges of the cosmos as "the boundary of our native land, and here no one is either exile or foreigner or alien; here are the same fire, water, and air; the same magistrates and procurators and chancellors—Sun, Moon, and Morning Star; the same laws for all, decreed by one commandment and one sovereignty . . . god."[46]

The contest between the state and people on the move has been a reoccurring theme in history. James C. Scott writes that "nomads and pastoralists (such as Berbers and Bedouins), hunter-gatherers, Gypsies, vagrants, homeless people, itinerants, runaway slaves, and serfs have always been a thorn in the side of states. Efforts to permanently settle these mobile people (sedentarization) seemed to be a perennial state project—perennial, in part, because it so seldom succeeded."[47] Thomas Nail argues that these different figures are all linked by their movement and relation to others who want them to remain in place: "What defines the nomad, the barbarian, the vagabond, and the proletariat as migrant subjects is the sense in which each of these figures is displaced and made mobile in its own way and with respect to its own relative points of expulsion."[48] Through different periods of history, people in positions of power have used movement restrictions as a mechanism to protect their privileges.[49] In the seventeenth century, John

Locke and Thomas Hobbes set the terms for the debate about state sovereignty with their differing views on the need for a state, and scholars have continued the discussion for centuries.[50] Initially most states did not have substantial restrictions on movement, except in times of war, but by the beginning of the twentieth century countries around the world began to institute systems of passports and exclusive citizenship.[51] In the process, borders became key locations to protect privileges through the restriction of movement at the edges of states.

This volume builds on a number of recent books about freedom of movement "with the ultimate aim of charting a course towards human liberation."[52] Early contributions such as Theresa Hayter's *Open Borders* provided a foundation for a recent expansion of the field including Carens's *Ethics of Immigration*, Harsha Walia's *Undoing Border Imperialism*, Harald Bauder's *Migration Borders Freedom*, and Natasha King's *No Borders*.[53] There are many different approaches that can be grouped together under the idea of a borderless world: no borders, open borders, safe passage, and free movement all mean slightly different things.[54] Scholars who favor free movement tend to do so from very different ideological positions, in distinct venues, and often using disparate language.[55] On the one hand, libertarians such as Alex Nowrasteh, often working with the Cato Institute in Washington, D.C., have contributed an economic perspective to the debates about migration controls, arguing that limits on movement are heavy-handed government interventions that limit the ability of individuals to engage in free enterprise. On the other hand, anarchist and other antiauthoritarian scholars such as Natasha King and Harsha Walia have focused on the impact of state violence on people who move. The purpose of this book is to find common ground between these distinct ideological and political positions to make the case that free movement is a human right that should be supported by all.[56]

Just as there are many variations in the free movement approach, there are also many terms used to describe people on the move. In this book we generally use "migrant" as a catchall term to signify someone who is moving from one place to another. A few contributors prefer "people on the move," consequently the language varies across chapters. The authors generally refrain from using "immigrant" because it gives primacy to a line between inside and outside that must be crossed. Similarly, we rarely use "refugee" because it is a state-defined category that legitimates some movement (for fear of political persecution) at the expense of all others (e.g., economic, familial, or environmental). It goes without saying that no one is illegal in this book, but Michael Huemer's chapter does engage with the idea of "illegal immigration" to argue that even if the laws make movement illegal, people still have a moral and ethical right to move.

The book includes contributions from a diverse group of international scholars in the fields of anthropology, architecture, geography, international relations, philosophy, political science, public health, science and technology studies, and sociology as well as activists based in Europe, North America, and Africa.[57] The

contributors bring their expertise and experience to the volume as the multiple perspectives and approaches combine to demonstrate the problem with how movement restrictions at borders are enforced today and suggest solutions for how the world can move toward protecting the freedom of movement as a basic human right in the future.

The first part of the book, "Why Borders Should Be Open," explains the theoretical case for free movement. These chapters analyze philosophical, legal, and moral arguments for opening borders by questioning the dominant idea that states should favor the rights of citizens over those of all human beings. In chapter 1, Thomas Nail argues that in what he calls "the century of the migrant" the obligation to move toward a world of free movement is clear. Consequently, he outlines three tactics of solidarity, sanctuary, and status to further the recognition of the right to move and to help people who are vulnerable under current laws. In chapter 2, Michael Huemer considers whether it is ethically acceptable to violate restrictive migration policies, to migrate even if it is "illegal" under a state's laws. He concludes that it is. In chapter 3, Charles Heller, Lorenzo Pezzani, and Maurice Stierl discuss different approaches to freedom of movement and outline a series of antinomies—apparently unresolvable contradictions between terms—that they argue a politics of freedom of movement must address to sharpen both its long-term horizon and its daily practices. The last three chapters of part 1 build on Harald Bauder's point that "freedom to migrate cannot be divorced from discussions of the right to stay and belong."[58] In chapter 4, Nandita Sharma critiques citizenship by arguing for a radical openness in belonging that is not based in the idea of nation. In chapter 5, Jenna Loyd highlights the origins of border abolitionism in the slavery abolitionist movement and then argues that border abolitionism today cannot ignore critiques of other forms of movement restrictions such as prisons. In chapter 6, Jacqueline Stevens argues that there are parallels between the slavery abolitionist movement's use of courts to prevent returning slaves to the US South and migrant rights activists today contesting deportation orders.

Part 2, "The Problem with Borders," demonstrates the consequences of the current regime of movement restrictions at borders. Each chapter sketches out a picture of the reality of movement restrictions at borders in the twenty-first century. In chapter 7, Joseph Nevins argues that free movement today could be seen as a form of reparations for past injustices by connecting the history of US interventions in Honduras in support of financial interests to the current unrest that sends migrants toward the border. In chapter 8, Polly Pallister-Wilkins explores the possibility of a borderless humanity within universalist discourses of humanitarianism in the practice of Médecins Sans Frontières as it embarks on search-and-rescue operations in the Mediterranean. In chapter 9, Elisabeth Vallet details the rise of border walls around the world and questions the assertion that they serve as a deterrent to movement. In chapter 10, Said Saddiki and

Meryem Lakhdar trace the history of movement within and at the edges of the European Union to explain how border work has been externalized over the past twenty years. In chapter 11, Christine Leuenberger points to ways that states can incorporate people on the move by highlighting best practices of inclusion for people on the move in Germany and Uganda.

Part 3, "Activism for Free Movement," provides a space for discussion between scholars theorizing open borders and activists who contest border restrictions on the ground. In chapter 12, Andrew Burridge focuses on the local scale in the United Kingdom to look at how borders are materialized in the lives of migrants through the requirement of weekly reporting to British authorities and how support groups intervene in the process. In chapter 13, Natasha King tells the story of Calais Migrant Solidarity, which set up a house in Calais, France, to provide shelter and support for women and children attempting to cross into the United Kingdom and provided sanctuary and solidarity, but also reproduced uncomfortable hierarchies between privileged activists and people on the move. Chapter 14 includes testimonials from activists and migrants associated with No Borders Morocco that illustrate the violence of border externalization and the increasingly aggressive actions of state officials. Chapter 15 presents communiqués from Semillas Autónomas, a collective of activists who look for common ground between migrant rights and indigenous resistance to the state. In chapter 16, Peter Mancina looks at the possibilities and limits of sanctuary cities as a tactic of migrant protection. The conclusion wraps up the book by reiterating the call for freedom of movement and considering the next steps to make open borders a reality.

Facing Headwinds

The fact that border controls and movement restrictions have remained in place for over a century makes clear that they do have powerful constituencies that support them. As this introduction and the subsequent chapters demonstrate, there are strong economic, moral, and ethical arguments for free movement, but the current border system undoubtedly benefits corporations and political elites. Large corporations operate globally and profit from different legal regimes at borders that allow them to play countries against each other to obtain reduced regulations and wages for workers. Border controls also trap poor workers in their home countries, creating pools of low-wage labor that can be exploited. There is a growing border industrial complex that relies on government expenditures for more sophisticated security infrastructure supplied by military contractors.[59] Furthermore, as Donald Trump and other anti-migrant politicians demonstrated in the past few years, political slogans about border walls and migration controls exploit the fears some people have of changes that might be brought by migrants from different places. These fears of others, however irra-

tional, are powerful and retain a strong hold over the way people think about their place in the world and the role borders play in protecting that.

We recognize that these countervailing trends have produced a more bordered world over the past thirty years, and we do not underestimate the power of financial interests and othering politics to shape border policies going forward. We expect that in the short term there will likely be more border walls and additional movement restrictions around the world. Nevertheless, in the chapters that follow we present a counterargument to a dystopian future of walled states and violent borders by making the case for open borders and defending the right of all human beings to move.

INTRODUCTION

1. Joseph Nevins, *Operation Gatekeeper and Beyond: The War on "Illegals" and the Remaking of the U.S.-Mexico Boundary* (New York: Routledge, 2010), 190.

2. Yanan Wang, "At One Border Park, Separated Immigrant Families Hug across a Steel Divide," *Washington Post*, May 1, 2016.

3. Joseph Carens, *The Ethics of Immigration* (Oxford: Oxford University Press, 2013), 32.

4. Nathan Smith, "Who Favors Open Borders," *Open Borders*, December 3, 2012.

5. Michael Savage, "Juncker: Borders Are Worst of Inventions," *Times* (London), August 23, 2016.

6. The term "borderless world" is often associated with the 1990s writings of Kenichi Ohmae. Ohmae's argument was not focused on movement as much as on trade and economies, which he argued were not bounded by national borders but were global. See Kenichi Ohmae, *The Borderless World: Power and Strategy in the Interlinked Economy* (New York: Harper, 1990).

7. See figure 9.1 in this volume.

8. Reece Jones, Corey Johnson, Wendy Brown, Gabriel Popescu, Polly Pallister-Wilkins, Alison Mountz, and Emily Gilbert, "Interventions on the State of Sovereignty at the Border," *Political Geography* 59 (2017): 1–10; Reece Jones and Md. Azmeary Ferdoush, *Borders and Mobility in South Asia and Beyond* (Amsterdam: Amsterdam University Press, 2018).

9. International Organization for Migration, Missing Migrants Project, http://missingmigrants.iom.int.

10. Michelle Ye Hee Lee, "Donald Trump's False Comments Connecting Mexican Immigrants and Crime," *Washington Post*, July 8, 2015.

11. Thomas Edsall, "Euro-Trump," *New York Times*, November 18, 2015.

12. Donald Trump via Twitter, March 14, 2016, https://twitter.com/realdonaldtrump/status/709362309819404289.

13. Charter of the United Nations, Article 2, Clauses 4 and 7.

14. Michael Blake, "The Right to Exclude," *Critical Review of International and Social Political Philosophy* 17, no. 5 (2014): 521–37; George Borjas, *We Wanted Workers: Unravelling the Immigration Narrative* (New York: Norton, 2016); Mark Friedman, "Libertarianism and Immigration: A Reply to Michael Huemer," *Natural Rights Libertarian*, December 13, 2011; Victor Davis Hanson, "Imagine There's No Border: A World without Boundaries Is a Fantasy," *Social Order*, Summer 2016; Stephen Macedo, "When and Why

Should Liberal Democracies Restrict Immigration?," in *Citizenship, Borders, and Human Needs*, ed. Rogers Smith (Philadelphia: University of Pennsylvania Press, 2011), 301–23; David Miller, "Immigration: The Case for Limits," in *Contemporary Debates in Applied Ethics*, ed. Andrew Cohen and Christopher Wellman (Malden, Mass.: Blackwell, 2005), 193–206, 200–201; David Miller, *Strangers in Our Midst: The Political Philosophy of Immigration* (Cambridge, Mass.: Harvard University Press, 2016).

15. Borjas, *We Wanted Workers*.

16. Borjas, *We Wanted Workers*.

17. David Card, "Is the New Immigration Really so Bad?," *Economic Journal* 115 (2005): F300–F332; Michael Clemens and Jennifer Hunt, "The Labor Market Effects of Refugee Waves: Reconciling Conflicting Results" (Center for Global Development Working Paper 455, 2017).

18. Jerry Iannelli, "White House Uses Debunked Mariel Boatlift Study to Propose Immigration Crackdown," *Miami New Times*, August 3, 2017.

19. Miller, *Strangers in Our Midst*, 9.

20. Maria Enchautegui, "Immigrant and Native Workers Compete for Different Low-Skilled Jobs," *Urban Institute Urban Wire*, October 14, 2015.

21. Gihoon Hong and John McLaren, "Are Immigrants a Shot in the Arm for the Local Economy?" (NBER Working Paper No. 21123, 2015).

22. Harald Bauder, *Labor Movement: How Migration Regulates Labor Markets* (Oxford: Oxford University Press, 2006), 22.

23. Michael Huemer, "Is There a Right to Immigrate?," *Social Theory and Practice* 36, no. 3 (2010): 429–61.

24. Macedo, "When and Why Should Liberal Democracies Restrict Immigration?," 307.

25. Miller, *Strangers in Our Midst*, 10.

26. Peter Higgins, "The Ethics of Immigration and the Justice of Immigration Policies," *Public Affairs Quarterly* 29, no. 2 (2015): 155–74.

27. Dane Davis and Thomas Gift, "The Positive Effects of the Schengen Agreement on European Trade," *World Economy* 37, no. 11 (2014): 1541–57.

28. Bryan Caplan and Vipul Naik, "A Radical Case for Open Borders," in *The Economics of Immigration: Market-Based Approaches, Social Science, and Public Policy*, ed. Benjamin Powell (Oxford: Oxford University Press, 2015), 180–209.

29. Borjas, *We Wanted Workers*, 38–39, emphasis original.

30. Julie Ray and Neli Esipova, "More Adults Would Move for Temporary Work Than Permanently," *Gallup*, March 9, 2012.

31. Caplan and Naik, "Radical Case for Open Borders."

32. Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983).

33. Borjas, *We Wanted Workers*, 309.

34. Friedman, "Libertarianism and Immigration."

35. Hanson, "Imagine There's No Border."

36. Rogers Brubaker, "Ethnicity without Groups," *European Journal of Sociology* 43 (2002): 163–89; Md. Azmeary Ferdoush, "Seeing Borders through the Lens of Structuration: A Theoretical Framework," *Geopolitics* 23 (2018): 180–200.

37. Alex Nowrasteh, "Immigration and Crime: What the Research Says," *Cato at Liberty*, July 14, 2015; Kristin Butcher and Anne Piehl, "Why Are Immigrants' Incarceration Rates So Low? Evidence on Selective Immigration, Deterrence, and Deportation" (NBER Working Paper No. 13229, 2007).

38. Blake, "Right to Exclude."

39. Blake, "Right to Exclude," 529.

40. Huemer, "Is There a Right to Immigrate?," 439.

41. Carens, *Ethics of Immigration*.

42. Carens, *Ethics of Immigration*, 227.

43. Carens, *Ethics of Immigration*, 230.

44. Carens, *Ethics of Immigration*, 235.

45. Simon Springer, *The Anarchist Roots of Geography: Toward Spatial Emancipation* (Minneapolis: University of Minnesota Press, 2016).

46. Plutarch, *On Exile*, in *Moralia*, vol. 7 (Cambridge, Mass.: Loeb Classical Library, 1959), 513–71.

47. James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Condition Have Failed* (New Haven, Conn.: Yale University Press, 1998), 1.

48. Thomas Nail, *The Figure of the Migrant* (Stanford, Calif.: Stanford University Press, 2015), 15.

49. This is explored in depth in my book *Violent Borders*. Reece Jones, *Violent Borders: Refugees and the Right to Move* (London: Verso, 2016).

50. John Locke, *Second Treatise of Government*, ed. C. B. Macpherson (1690; Indianapolis: Hackett, 1980); Thomas Hobbes, *Leviathan*, ed. Richard Tuck (1651; Cambridge: Cambridge University Press, 1996).

51. John Torpey, *The Invention of the Passport: Surveillance, Citzenship, and the State* (Cambridge: Cambridge University Press, 2000).

52. Harald Bauder, *Migration Borders Freedom* (London: Routledge, 2018), 12.

53. Brian Barry and Robert Goodin, eds., *Free Movement: Ethical Issues in the Transnational Migration of People and Money* (London: Routledge, 1992); Phillip Cole, *Philosophies of Exclusion: Liberal Political Theory and Immigration* (Edinburgh: Edinburgh University Press, 2000); Theresa Hayter, O*pen Borders: The Case against Immigration Controls* (London: Pluto, 2004); Philippe Legrain, *Immigrants: Your Country Needs Them* (Princeton, N.J.: Princeton University Press, 2014); Natasha King, *No Borders: The Politics of Immigration Control and Resistance* (London: Zed Books, 2016); Antoine Pécoud and Paul de Guchteneire, *Migration without Borders: Essays on the Free Movement of People* (Paris: Berghahn Books, 2007); Harsha Walia, *Undoing Border Imperialism* (Oakland: AK Press, 2013).

54. Bauder, *Migration Borders Freedom*. See also Robert Barsky, "An Essay on the Free Movement of People," *Refuge* 19, no. 4 (2001), and Barsky, *Undocumented Immigrants in an Era of Arbitrary Law: The Plight of People Deemed Illegal* (London: Routledge, 2015).

55. Alex Sager, "Bureaucracy and Domination: An Indirect Argument for Open Borders," *Open Borders*, December 12, 2016. See also Alex Sager, ed., *The Ethics and Politics of Immigration: Core Issues and Emerging Trends* (London: Rowman & Littlefield, 2016).

56. The idea of universal human rights is an ideological position in line with cosmopolitan liberal thought. It stakes out an argument that, in addition to utilitarian economic

arguments about the benefits of the right to move, there is also a moral and ethical case for free movement. See Cole, *Philosophies of Exclusion*; Christopher Freiman and Javier Hidalgo, "Liberalism or Immigration Restrictions, but Not Both," *Journal of Ethics and Social Philosophy* 10, no. 2 (2016): 1–22; Christopher Wellman and Phillip Cole, *Debating the Ethics of Immigration: Is There a Right to Exclude?* (Oxford: Oxford University Press, 2011).

57. Other books that have recently tried to connect radical academic thought with activism around migration include Walia, *Undoing Border Imperialism*, and Pierpaolo Mudu and Sutapa Chattopadhyay, eds., *Migration, Squatting and Radical Autonomy* (London: Routledge, 2017).

58. Bauder, *Migration Borders Freedom*, 11.

59. Reece Jones and Corey Johnson, "Border Militarization and the Rearticulation of Sovereignty," *Transactions of the Institute of British Geographers* 41, no. 2 (2016): 187–200.

PART 1

Why Borders Should Be Open

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CHAPTER 1

Sanctuary, Solidarity, Status!

THOMAS NAIL

The aim of this chapter is to describe the current possible path toward a world without borders. Rather than provide a speculative vision of what a borderless world might or ought to look like, this chapter begins instead from where we are and, more importantly, what the road ahead will likely look like. In 2019, we are still at the beginning of this path, but a clear trajectory was already established at the turn of the century. Based on these early experiments we now have a solid idea of the kinds of struggles that will be required for the abolition of borders. Whether these struggles will be successful, what kinds of barriers will confront them, and what other kinds of tactics will be needed as part of a larger struggle against capitalist displacement, racism, colonialism, and the state are all questions for other projects.[1] This essay argues that progress is rarely made by benevolent lawmakers and policies alone. Laws are only poor crystallizations of prolonged popular struggles. Whether one is for or against open borders, or somewhere in between, it is worthwhile to consider empirically some of the processes that will be required to get there.

The case for open borders is often argued as a matter of philosophical morality: are borders just? Or it is argued a matter of administrative practicality: how, if at all, might open border policies be practically achieved by the modern nation-state system? These are important inquiries, but not the topic of this chapter. No less important, but not nearly as frequently considered, is the tactical question of what we will need to do to bring it about. Therefore, in this chapter I begin not from the point of view of cosmopolitan philosophy or political administration, but from the more primary point of social struggle, the material and historical origins of the practical demand itself: what are the tactical conditions for the possibility of a borderless world?

This chapter is divided into five short sections, each of which marks a vector in the path toward a borderless world. The first two sections argue that the starting point for political theory and action should no longer be the state and its policies but rather the socially constitutive figure of the migrant and human

mobility that produce and sustain society in the first place. The next three sections outline three interrelated tactics that will likely be necessary, but not sufficient, conditions for winning and sustaining a borderless world: sanctuary, solidarity, and status.

The Figure of the Migrant

Today there are more than a billion regional and international migrants, and the number continues to rise; within forty years, it might double due to climate change. While many of these migrants might not cross a regional or international border, people change residences and jobs more often, while commuting longer and farther to work. This increase in human mobility and expulsion affects us all. It should be recognized as a defining feature of our epoch: the twenty-first century will be the century of the migrant.[2]

In order to manage and control this mobility, the world is becoming ever more bordered. In just the past twenty years, but particularly since the terrorist attacks of September 11, 2001, hundreds of new borders have emerged around the world in the form of miles of new razor-wire fences and concrete security walls, numerous offshore detention centers, biometric passport databases, and security checkpoints in schools, in airports, and along various roadways across the world. All attest to the present preoccupation with controlling social motion through borders.[3]

This preoccupation, however, runs through the history of Western civilization. In fact, civilization's very expansion required the continual expulsion of migrant populations. The tactics used to expel populations have included the territorial techniques of dispossessing people from their land through miles of fencing (invented during the Neolithic period), political techniques of stripping people of their right to free movement and inclusion with new walls to keep out foreigners (invented during the ancient period and put to use in Egypt, Greece, and Rome), juridical techniques of criminalization and cellular confinement (invented during the European Middle Ages), and economic techniques of unemployment and expropriation by a continuous series of checkpoints (an innovation of the modern era). The return and mixture of all these historical techniques, thought to have been excised by modern liberalism, now define a growing portion of everyday social life.

This is the century of the migrant because the return of these historical methods now makes it clear for the first time that the migrant has always been a constitutive social figure. In other words, migrants are not marginal or exceptional figures, as they have so often been treated, but rather the essential lever by which all hitherto existing societies have sustained and expanded their social form. Territorial societies, states, juridical systems, and economies all required the so-

cial expulsion of migrants in order to expand. The recent explosion in mobility demands that we rethink political history from the perspective of the migrant.

Take an example from ancient history: the barbarian, the second major historical name of the migrant, after the nomad. In the ancient West, the dominant social form of the political state would not have been possible without the mass expulsion or political dispossession of a large body of barbarian slaves kidnapped from the mountains of the Middle East and Mediterranean and used as workers, soldiers, and servants so that a growing ruling class could live in luxury surrounded by city walls. The romanticized classical worlds of Greece and Rome were built and sustained by migrant slaves, by "barbarians," whom Aristotle defined by their fundamental mobility and their natural inability for political action, speech, and organization.

Some of the same techniques and justifications for political expulsion remain in effect today. Migrants in the United States and Europe, both documented and undocumented, sustain whole sectors of economic and social life that would collapse without them. At the same time, they remain largely depoliticized compared with the citizens their labor sustains, often because of their partial or nonstatus. Just as Greeks and Romans were capable of incredible military, political, and cultural expansion only on the condition of the political expulsion of cheap or free migrant labor, so it is with Europeans and Americans today.

If this connection seems outlandish, then consider how migrants are described in recent media. The rhetorical connection is as explicit as the architectural one of building giant border walls. In the United States, writers such as Samuel Huntington and Patrick Buchanan have worried about a "Mexican immigrant invasion" of "American civilization." In the United Kingdom, the *Guardian* published an editorial on Europe's crisis that ended by describing refugees as the "fearful dispossessed" who are "rattling Europe's gates," a direct historical reference to the barbarian invasion of Rome. In France, the presidential front-runner, Marine Le Pen, said at a rally in 2015 that "this migratory influx will be like the barbarian invasion of the fourth century, and the consequences will be the same." Even the president of the European Council, Donald Tusk, has described the recent refugees with the same "dangerous waters" and military metaphors used by Romans to depoliticize barbarians: refugees are a "great tide" that has "flooded into Europe" producing "chaos" that needs to be "stemmed and managed." "We are slowly becoming witnesses to the birth of a new form of political pressure," Tusk claims, "and some even call it a kind of a new hybrid war, in which migratory waves have become a tool, a weapon against neighbors."[4]

This will be the century of the migrant, not just because of the sheer magnitude of the phenomenon, but because the asymmetry between citizens and migrants has finally reached its historical breaking point. The prospects for any structural improvements in this situation are hard to imagine, but alternatives are not without historical precedent. Before any specific solutions can be

considered, including open borders, the first step toward any change must be to start with the migrant as a primary social figure. This means opening up the political decision-making process to everyone affected by the proposed changes regardless of status. The only way forward in the long march for migrant justice and social equality is status for all.

Migrant Cosmopolitanism

While states and other institutions have slowly walled themselves in over the course of civilization, there has always been a group on the other side forcing the gates open or tearing the walls down: the migrants of history. A migrant, broadly defined, is the political figure whose movement is the cause or result of their social expulsion. The migrant is the collective name for all the political figures in history who have been territorially, politically, juridically, and economically displaced as a condition of the social expansion of power. As such, migrants have always been active not only in demanding greater inclusion, but in creating cosmopolitan alternatives of their own. Migrants have always been the motor of social history; today this omission is becoming glaringly apparent.

In the Neolithic world, the nomads of the steppe were territorially displaced by agricultural peoples and so invented a new social organization of their own based on solidarity, inclusion, and undivided territory. In the ancient world barbarians were kidnapped from all over the Mediterranean and enslaved for the purpose of supporting the Greek and Roman political apparatus. Maroon societies of escaped slaves in Chios and communities of revolting slaves in the Servile Wars, including the one led by Spartacus, were by far the most open and diverse cosmopolitan societies of the ancient period. In the medieval world, hundreds of thousands of peasants were forced from their homes by excessive taxation, the invention of money, rent (commutation debt), enclosures (land privatization), and other means, and then criminalized as vagabonds. Vagabonds of all kinds created maroon societies like those of Bacaudae in Gaul that welcomed all displaced people, who created roaming bands of military defectors, paupers, heretics, minstrels, and so on, with open membership. They created universalist and often egalitarian underground societies that dug up enclosure fences in the night, lived in the forests, wastelands, and commons, and preached the cosmopolitan right of the poor to the land.

In the modern world, after centuries of displacement, migrants were dispossessed of everything but their own labor and were forced to move to wherever and work for whatever capitalists desired. The migrant proletariat in the modern period created the Paris Commune and socialist utopian societies of all sorts. Communists, anarchists, and others advocated the universal equality of an international working class against capitalist displacement and all political

exclusion. Thus, it was migrants of all kinds throughout history, not states, who were the true agents of political inclusion and cosmopolitanism.[5] The legacy of migrant cosmopolitanism continues today in three kinds of tactical struggles: sanctuary, solidarity, and status.

Sanctuary

The first major tactic of this migrant cosmopolitanism is sanctuary. Before any larger social or legal changes are instituted, sanctuary will likely be required to defend migrants and provide the first sites of collective resistance. Migrant sanctuary has a very long history, going all the way back to the fourth century, originating as a religious institution. Even today it is churches, more than anywhere else, that have maintained a space of juridical exception where the law of the state does not apply and where the police are not allowed, either by law or by historical convention. Related to but distinct from this religious tradition, the proliferation of sanctuary cities around the turn of the twenty-first century is a clear indication of a growing social desire to protect undocumented migrants and refugees seeking asylum. Sanctuary cities limit their cooperation with federal immigration enforcement in one way or another. On one end of the spectrum are cities like Denver, which does not officially call itself a sanctuary but is still considered by US Immigration and Customs Enforcement (ICE) to be a sanctuary city because it does not enforce immigration policy or ask people about their legal status and share that information with ICE.[6] On the other side are cities like San Francisco that not only make it illegal for municipal entities to cooperate with federal immigration but also forbid city employees to limit city services or benefits based on immigration status.[7]

In 2017, President Trump signed an executive order to remove federal funding to all sanctuary cities. The recent rise of sanctuary spaces of all kinds, #SanctuaryRising, #SanctuaryCampus, and others after President Trump's aggressive proposal to deport millions of migrants from the United States, and executive orders to defund sanctuary cities and block refugees to the United States are an important continuation of this very basic gesture of protection that had its first major political demonstration in *Le Mouvement de sans-papiers à Paris en 1996* (the movement of those without papers in Paris in 1996).[8]

In 1996, the first autonomous organization of undocumented migrants was formed in France against the anti-immigrant Pasqua Laws. On March 18, 1996, 324 Africans, including 80 women and 100 children, occupied the church of Saint Ambroise and demanded the regularization of their immigration status. Four days later, on March 22, the police evicted the *sans-papiers* from Saint Ambroise, an action authorized by the church. Soon after there were two large public demonstrations in Paris in support of the *sans-papiers*, and in June the

government regularized twenty-two of the original Saint Ambroise demonstrators. Because of the clear public support for the Saint Ambroise *sans-papiers* and their partial regularization, their struggle led to the creation of more than twenty-five *sans-papiers* collectives in France. In Lille and Versailles, hunger strikes were conducted that in some cases led to regularization.[9] However, by far the most well-publicized *sans-papiers* occupation occurred at Saint Bernard Church in Paris later that year, beginning on June 28. Three hundred undocumented Africans occupied the church and demanded regularization. Ten men went on hunger strikes in the church for fifty days, and set up the Coordination Nationale des Sans-Papiers (Sans-Papiers National Coordinating Committee). Saint Bernard Church was occupied from June 28 until August 23, 1996, until riot police violently broke down the church doors with axes, used tear gas on mothers and babies, and dragged everyone out. That night, twenty thousand people marched in the streets to support the *sans-papiers*. By January 1997, 103 of the original 324 had received temporary papers, 19 had been deported, and 2 had been jailed.[10]

After the Saint Bernard occupation, *sans-papiers* occupations only increased across France. As the left and right political parties prepared for elections in June 1997, the right attempted to distinguish its party with the anti-immigrant Debré laws. Among other things, these laws required anyone who allowed a foreigner to stay in their residence to report this to the local town hall or they would be charged with aiding and abetting an "illegal" (clandestine). Following the first application of this law by a French woman living with a *sans-papiers* in Lille, sixty-six filmmakers called for a massive civil disobedience protest against the Debré law. Soon after, daily newspapers published lists of writers, artists, scientists, university teachers, journalists, doctors, and lawyers, all offering to accommodate foreigners without asking for papers. On February 22, 1997, a hundred thousand people demonstrated in Paris against Debré. In March 1998, the *sans-papiers* occupied the Notre Dame de la Gare and Saint Jean de Montmartre churches, and later others marched from Toulouse to Paris, demanding "Regularization for all!" Cosmopolitanism happened not in the voting booths but in the streets and emerged from sanctuary spaces.

A key feature of the *sans-papiers* struggle was their demand to speak for themselves and in their own name:

> We the Sans Papiers of France, in signing this appeal, have decided to come out of the shadows. From now on, in spite of the dangers, it is not only our faces but also our names that will be known. We declare: Like all others without papers, we are people like everyone else. Most of us have been living among you for years. We came to France with the intention of working here and because we had been told that France was the "homeland of the Rights of Man": we could no longer bear the poverty and the oppression which was rife in our countries, we wanted our children

> to have full stomachs and we dreamed of freedom. . . . We demand papers so that we are no longer victims of arbitrary treatment by the authorities, employers and landlords. We demand papers so that we are no longer vulnerable to informants and blackmailers. We demand papers so that we no longer suffer the humiliation of controls based on our skin, detentions, deportations, the break-up of our families, the constant fear.[11]

After many years, the *sans-papiers* won several important battles for their papers, rights, and inclusion in French society, yet there remains much to be done. These rights were won not simply because of beneficent leaders with broad ideas about cosmopolitan justice but by starving migrants who were publicly beaten, experienced racial discrimination, and were expelled by the police. These rights were won because hundreds of thousands of French people said they would rather break the unjust laws against harboring *sans-papiers* than turn their back on their fellow humans. This is migrant cosmopolitanism.

Solidarity

The second major tactic along the path to a borderless world is that of solidarity, by which I mean not only a feeling of kinship, but specific tactics that go beyond the noncooperation and protectionism of sanctuary practices. In particular, I mean the active organization of migrant justice social groups and demonstrations by migrants and allies including, but not limited to, the extension of social service provision to partial and nonstatus migrants such as free clinics, Doctors Without Borders, Lawyers Without Borders, and safe houses; food and water provision like No More Deaths, Casa de Paz, No Borders camps, and many others; cell phone map provision to help migrants survive the desert and avoid the Border Patrol like the Transborder Immigrant Tool in the United States and the InfoAid App to help refugees navigate their way through Europe. I use the term "solidarity city" or "solidarity organizations" to distinguish groups that actively help, support, or treat as equal in one way or another partial and nonstatus migrants. In other words, while many sanctuary cities and organizations in the United States do not require city employees to cooperate with federal immigration enforcement, not all cities actively make this illegal and not all (nonmunicipal) organizations in the city actively provide services to nonstatus migrants or publicly support them. Instead of waiting for a borderless world, the solidarity city is an attempt to start making one now.

The creation of solidarity cities for migrants is of course continuous with the sanctuary legacy. The creation of sanctuary cities and asylum is as old as slavery itself; today city governments all over the world choose not to enforce federal and state immigration laws. The solidarity city is a more radical incarnation

of the practice of modern church sanctuary that emerged across North America in the 1980s, in response to US foreign policy and civil war in Central America. The idea of entire sanctuary cities has now spread to thirty-one cities in the United States and many others around the world. While top-down "don't ask, don't tell" (DADT) city immigration policies may be legally binding at the local level, they often do not stop police, service providers, or individuals in the city from reporting nonstatus persons directly to federal immigration enforcement. So while many sanctuary cities of the United States may directly discourage police from helping immigration officials because it is "not their responsibility," they often can and do. DADT is thus a precarious policy that always risks betrayal to the federal level. This is why DADT must become a matter of solidarity, similar to the underground railroads of the United States in the nineteenth century. Sanctuary practices that merely discourage working with federal immigration are not enough. We need solidarity practices that seek out ways to help nonstatus migrants through active city provisioning of services, a culture of popular antagonism against federal immigration enforcement, and specific organizations dedicated to supporting nonstatus migrants.

One recent attempt to coordinate this kind of effort and move beyond mere city sanctuary ordinances began in Toronto in 2009 and spread to Montréal and elsewhere.[12] In 2013 Toronto became the first Canadian city with a formal policy allowing undocumented migrants to access services regardless of immigration status.[13] The solidarity city movement is a migrant justice movement to (1) ensure that all city residents, including people without full immigration status, can access essential services, such as housing, health, education, social services, and emergency services, without fear of being detained or deported; (2) ensure that municipal funds and city police are not used to support federal immigration enforcement; and (3) ensure that residents of the city are not required to provide proof of immigration status to obtain services and that if such information is discovered it will not be shared with federal immigration enforcement. But the goal of the solidarity city is not just a legal formality—it is a social and political project to network with other community organizations to establish organizations that actively assist nonstatus migrants, including clinics, schools, food banks, and women's shelters that will (1) provide access to anyone regardless of status, (2) have frontline staff who adhere to this commitment and will be sensitive to nonstatus issues, and (3) create a larger culture of antagonism with federal immigration enforcement and solidarity with precarious migrants.[14]

The density and diversity of migrants in the city of Toronto make it a particularly fecund milieu for the creation of a solidarity city network. With over eighty different ethnicities and more than half of its city population born outside the country, Toronto is demographically the most diverse city in the world.[15] An estimated half million nonstatus persons live in Canada, and Toronto is home to more than half of them.[16] The Toronto migrant justice group No One Is Illegal

(NOII) has taken the idea of sanctuary cities one step further. NOII began in Germany in 1997, inspired by the *sans-papiers* organizations in France, and has spread to countries all over the world. NOII calls for the regularization of all nonstatus persons, an end to deportations, an end to the detention of migrants and refugees, and the abolition of security certificates.[17] NOII's strategy is prefigurative insofar as it aims to build a solidarity city in which all the institutions and people of the city agree to serve and protect everyone, regardless of papers. The aim is to mobilize the whole population of the city in collective civil disobedience against the Canadian government's immigration policies, effectively building the cosmopolis that they envision without waiting for a borderless world or the demise of the state.[18]

Status

The third major tactic along the path to a borderless world is that of status. Full status for all migrants in a given place does not necessarily entail the absence of all borders. Territorial borders might still exist and some kind of political administration may still control the conditions of entry and departure. For example, even the revolutionary Zapatista communities in Chiapas, Mexico, guard their territorial borders against paramilitary and government attacks.

Any borderless world, however, still requires some kind of equality of social status for its occupants. If some had legal status and others did not, this would simply allow the border to "follow one" around like a general regime of "deportability." Borders are not only at the territorial periphery, but all over the place and include all the social mechanisms that materially deprive any person of territorial, political, legal, and economic status. Full social status means that within a given administrative region everyone has full and equal territorial, political, legal, and economic status. "No borders" does not just mean no territorial borders; it means no internal checkpoints, the right to work, the right to free movement, and the right to political participation by everyone.

Social status can be achieved in two ways: The first way is provisionally, or de facto, through means of solidarity, as was demonstrated in the previous section. The limitation of solidarity, however, is that people can still report one another to federal immigration officers who can still legally detain and deport as they please. The tactics of sanctuary and solidarity are both necessary but not yet sufficient conditions for a borderless world. Only full social status for everyone can achieve this.

The second way of achieving status for all is legally or de jure, through political and administrative means. Unlike sanctuary and solidarity, de jure status is not something that can be achieved by grassroots action alone but must be implemented at the highest levels of social organization. There cannot be

a social or political body whose job it is to incarcerate and deport partial or nonstatus migrants. Full administrative status means that everyone who is here belongs here and has full status here. The implementation of "status for all" has an interesting paradoxical outcome. Although implemented by means of the nation-state, it effectively undermines the national character of the state, since anyone could belong to it. The state then becomes a purely administrative body to be dealt with by other means, which I have elaborated on elsewhere.[19]

Full status for all is certainly the most distant of the three tactics for us today, but nonetheless forms the tactical horizon of struggle for the twenty-first century on the path to a borderless world.

Conclusion

This short chapter is only one piece in a much larger argument for sanctuary, solidarity, status, and open borders. The struggle for migrant justice will require many things, at least three of which are the protection and defense of migrants in every sector of society from federal immigration enforcement; an active support network composed of material social service provisions like food, shelter, medical care, and others; and ultimately a successful legal battle for universal status at the highest political level. My aim here has been a brief walk along the tactical path that I think, based on historical precedent, will be necessary to reach a no borders or minimal borders situation. Now it is time to take a walk in the streets!

NOTES

1. See Thomas Nail, *The Figure of the Migrant* (Stanford, Calif.: Stanford University Press, 2015), for more on the diversity of tactics used in these related areas.

2. See Nail, *Figure of the Migrant*, for a full theoretical development of this position.

3. See Thomas Nail, *Theory of the Border* (Oxford: Oxford University Press, 2016), for a full theoretical development of this position.

4. Simon Kent, "Le Pen: Europe's Migrant Flood Equals 'Barbarian Invasions of 4th Century,'" *Breitbart*, October 6, 2015, http://www.breitbart.com/london/2015/10/06/le-pen-europes-migrant-flood-equals-barbarian-invasions-4th-century/; Moni Basu, "Daniel's Journey: How Thousands of Children Are Creating a Crisis in America," *CNN*, June 19, 2014, www.cnn.com/2014/06/13/us/immigration-undocumented-children-explainer/; Kirk Semple, "Surge in Child Migrants Reaches New York, Overwhelming Advocates," *New York Times*, June 17, 2014, www.nytimes.com/2014/06/18/nyregion/immigration-child-migrant-surge-in-New-York-City.html; Matthew Holehouse, "EU Chief: Close the Doors and Windows as Millions More Migrants Are Coming," *Telegraph*, September 24, 2015, http://www.telegraph.co.uk/news/worldnews/europe/11887091/EU-chief-Close-the-doors-and-windows-as-millions-more-migrants-are-coming.html; Matthew Holehouse, "EU Chief: Migrant Influx Is 'Campaign of Hybrid Warfare' by Neighbours to Force Conces-

sions," *Telegraph*, October 6, 2015, http://www.telegraph.co.uk/news/worldnews/europe/eu/11915798/EU-chief-Migrant-influx-is-campaign-of-hybrid-warfare-by-neighbours-to-force-concessions.html.

5. See Thomas Nail, "Migrant Cosmopolitanism," *Public Affairs Quarterly* 29, no. 2 (2015): 187–200.

6. "But in some key ways, Denver has taken a moderate tack. Most notably, the measure *agreed upon this month* by Mayor Michael Hancock and its City Council sponsors maintains the sheriff's practice of giving U.S. Immigration and Customs Enforcement a heads-up before releasing inmates wanted on a detainer." *Noelle Phillips*, "ICE Includes Denver in Immigration Sweep That Targeted Sanctuary Cities," *Denver Post*, September 28, 2017.

7. The ordinance is here: http://sfgov.org/oceia/sanctuary-city-ordinance-0.

8. An earlier "sanctuary movement," to house Central American political refugees in churches, occurred in the United States during the 1980s.

9. Theresa Hayter, *Open Borders: The Case against Immigration Controls* (London: Pluto, 2004), 144.

10. Hayter, *Open Borders*, 144.

11. Madjiguène Cissé, *The Sans-Papiers: The New Movement of Asylum Seekers and Immigrants without Papers in France* (Paris: Crossroads Books, 1997).

12. Earlier efforts to radicalize the sanctuary city by provision ordnances can also be seen in US cities like San Francisco and New York that actively forbid city employees to work with federal immigration and to withhold social services. Thomas Nail, Faria Kamal, and Syed Hussan, "Building Sanctuary City: No One Is Illegal—Toronto on Non-status Migrant Justice Organizing," *Upping the Anti: A Journal of Theory and Action* 11 (2010): 149–62.

13. Nicholas Keung, "Toronto Declared 'Sanctuary City' to Non-status Migrants," *Toronto Star*, February 22, 2013.

14. DADT policies still need solidarity.

15. Nicholas Keung, "A City of Unmatched Diversity," *Toronto Star*, December 5, 2007.

16. According to No One Is Illegal's website: http://toronto.nooneisillegal.org/node/274.

17. A Security Certificate is a mechanism by which the government of Canada can detain and deport foreign nationals and all other noncitizens living in Canada.

18. As No One Is Illegal states, "The Solidarity City is about bypassing the ideas behind nation-states and centralized governments." Quoted in Nail et al., "Building Sanctuary City," 159.

19. See Thomas Nail, *Returning to Revolution: Deleuze, Guattari, and Zapatismo* (Edinburgh: Edinburgh University Press, 2012).

CHAPTER 2

In Defense of Illegal Immigration

MICHAEL HUEMER

The "Problem" of Illegal Immigration

There are millions of people who would like to migrate to the United States but are not authorized by the US government to do so. By recent estimates, over eleven million have chosen to migrate anyway, in violation of the federal government's immigration laws. What is the appropriate evaluation of this behavior—is it wrong? Should we blame individuals for immigrating illegally?

Many appear to think so. In 2013, as both the president and a bipartisan group of US senators were calling for immigration reform, the idea of offering a pathway to citizenship for the nation's migrants came under fire. One key argument (later to be reprised during the 2016 presidential primaries) apparently rested on moral disapproval of those who had immigrated illegally. Senator Jeff Sessions, a longtime opponent of immigration reform, stated, "We believe that people should wait their time . . . and that we should not be rewarding those who violate the law and making [it] even harder for those who try to comply with the law."[1] Congressman Raul Labrador echoed these sentiments: "The people that came here illegally, knowingly, I don't think they should have a path to citizenship. If you knowingly violated our law, you violated our sovereignty, I think we should normalize your status, but we should not give you a pathway to citizenship."[2] Part of the concern here may be about incentives: if undocumented immigrants are forgiven and allowed to become citizens, this may cause more illegal immigration in the future. But at least part of the concern appeared to be that it would be unjust to "reward" people for violating the law, presumably because it was wrong of those people to violate the law.

Whether or not that is what Sessions or Labrador had in mind, it is an interesting philosophical question whether it is in fact wrong to enter or remain in a country without the authorization of the country's government. In what follows, I argue that the answer is no: even if it is normally wrong to break the

law, the immigration laws in particular have no moral force for potential immigrants, and most of these individuals have no moral reasons *not* to migrate illegally. Illegal immigrants therefore cannot justly be censured or punished for doing so.

Malum in Se

Orthodox legal doctrine generally assumes that (all or nearly all) actions that violate the law are morally wrong. But there are two distinct ways in which such actions may be wrong: they may be *mala in se* (wrong in themselves) or *mala prohibita* (wrong because prohibited).[3] Actions that are wrong in themselves include murder, rape, and theft: violations of moral rights that people have independent of the state. As such, they would be morally objectionable even if the state had said nothing about them. They are wrong in any society (though the exact contours of each of these categories may vary to some degree among societies). The state cannot render these actions permissible; if the state, for example, declares murder permissible, then the state will simply be wrong.

By contrast, the actions that are *mala prohibita* vary from one society to another. They are wrong only because the state has chosen to forbid them. For example, most consider it wrong to fail to pay one's income taxes or to practice medicine without a license or to drive on the left hand side of the road (if one is in America). These things are not intrinsically wrong: if the legislature declared that you were no longer required to pay income tax, then it would no longer be wrong to fail to pay; if the government declared that doctors no longer needed licenses, then it would no longer be wrong to practice medicine without a license; and so on.

If illegal immigration is wrong, is it *malum in se* or *malum prohibitum*? Let us begin with the (perhaps less promising) first alternative. If illegal immigration is wrong in itself, there presumably must be some reason why it is wrong, and we could reasonably expect that reason to be connected to the reasons for which immigration is prohibited for certain people in the first place. It is therefore reasonable to look to the arguments most commonly offered for restricting immigration for a clue to how immigration might be considered harmful or wrong.

My purpose in discussing these arguments is not to assess their soundness as reasons for government policy. In fact, I think these arguments fail to justify immigration restrictions, as I have explained at length elsewhere,[4] but I recognize that many will disagree with me on that score. My question here is a separate one: Even if we assume that *the state* has good reasons for restricting immigration, do any of these reasons apply to the potential immigrants themselves? Do *they* have any moral reasons to refrain from migrating?

STEALING JOBS

There are several common arguments for restricting immigration. Perhaps the most popular is that immigrant workers "steal jobs" from native-born workers or at least lower wages for natives by competing in the job market. Most economists agree that immigration benefits the economy overall.[5] However, it does not benefit everyone; the least skilled workers (high school dropouts) may be slightly harmed economically due to competition from immigrants.[6] Usually, harming other people is wrong. So perhaps migrating to another country is therefore wrong.

But not all ways of harming others are wrong. In particular, it is not generally wrong to harm others simply in the sense of competing with them in a marketplace, whether the labor market or any other market. It is not wrong to sell a product that others wish to sell, to buy a product that others wish to buy, or to apply for a job for which others would like to apply—even though doing so renders one's competitors economically worse off. If it were wrong to harm others in this way, then virtually all actual economic activity would be wrong, and the first person to offer any product would be morally entitled to a monopoly. Indeed, the native workers themselves would be acting equally wrongly by stealing jobs from immigrants and other natives, and lowering wages both for immigrants and for each other.

Of course, if immigrants were literally *stealing* jobs, then this could justly be condemned. If, that is, native workers had a property right in certain jobs, and immigrant workers then violated that property right by transferring the jobs to themselves without the permission of the native job-owners, then the immigrants would be acting wrongly—just as I would be wrong to transfer your money from your wallet to mine without your consent. But this is not the case—individuals who wish to apply for a job do not have a property right in that job, nor do they have any other sort of right to be hired, in the absence of special circumstances such as a promise of employment given by the employer. Even one who is already employed has no *right* to continue in that job, in the absence of any contract promising continued employment.

If anyone has an initial property right in an employment opportunity, it would be the employer—more precisely, the employer owns the money that is to be used to compensate the worker and thus has the right to decide to whom to give that money. If the employer chooses to hire an immigrant rather than a native (and the immigrant agrees to accept the job), then the job ipso facto belongs to the immigrant, not the native. The immigrant is therefore not stealing anything. On the contrary, it is the native worker seeking to expel the immigrant who would be seeking to steal the immigrant's job.

FISCAL BURDENS

The second most popular argument for restricting immigration is that immigrants impose fiscal burdens on the government. Immigrants, on average, im-

pose a net cost on US state governments: they cost the government money for social services, especially schools, health care, and police services, while they pay lower taxes than the average American due to their relatively low average income level.[7]

Might this render illegal immigration wrongful on the part of the immigrants? We might think it wrong to impose a burden on society in this way—to take more benefits from the state than one has paid for. But even if we held this (controversial) view, it seems that the strongest conclusion we could draw is that immigrants are obligated to either reduce their consumption of government services or increase the amount of money they pay to the state (perhaps by making charitable contributions to the state), until they are no longer creating a net drain on government resources—not that they are obligated to leave the country entirely. Leaving the country would seem a drastic overreaction.

Compare the situation of native-born citizens who happen to have a low income. They too create a net drain on government resources, in precisely the way that immigrants do. Yet few consider them to be acting wrongly. Conservative and libertarian thinkers may blame *the state* for creating unfair burdens on middle- and upper-income taxpayers, but few would blame the poor for paying only what the government requires. And no one would say that the (native-born) poor are obligated to leave the society entirely because they are imposing a fiscal burden on the government. Since low-income immigrants (whether legal or illegal) are only doing the same thing that low-income natives are doing, it is hard to see how the immigrants could be morally blamed for failing to exit the society.

DUTIES OF PARTIALITY

Some argue that the government has special obligations to its own citizens that it does not owe to foreign nationals, and that this explains why it is permissible to exclude foreigners from competing in the labor market or from enjoying government services, even though we do not and should not similarly exclude low-income natives. The state, in short, has to place the interests of native-born citizens ahead of the interests of foreigners. (Aside: most native-born citizens benefit from immigration, including employers who hire immigrant workers as well as consumers who patronize those companies; only a small minority, the lowest skilled workers, are possibly rendered worse off. So one would also have to claim that the state should place the interests of low-skilled workers ahead of the interests of the rest of the native-born population.)

Be that as it may, it simply could not reasonably be maintained that the immigrants themselves have some sort of obligation to be partial to native-born citizens. The state might have special duties to its current citizens—say, because the state has a social contract with those citizens. But whatever reason we might plausibly give for the state's partiality would not apply to the foreign-born people

who wish to migrate into the country. *They* have no duty of partiality that requires them not to attempt to migrate.

CULTURAL CHANGE

Some say that immigration must be restricted because immigrants pose a threat to the nation's culture—if too many immigrants enter, the national culture will be destroyed or drastically altered.[8]

Again, this is not a reason that we could seriously expect the potential immigrants to take to heart. Of course, some cultural practices are morally wrong (female circumcision comes to mind)—but that has nothing to do with migration. If one is engaged in a morally wrong cultural practice (or any other morally wrong practice), one's duty is not to remain in a particular location; one's duty is to stop the practice, regardless of whether one migrates to another society or not.

The overwhelming majority of cultural practices are not wrong, nor do the critics of open immigration suggest that they are. It is not, for example, that American opponents of immigration believe that Mexican culture is morally wrong; it is simply that they *prefer* current American culture over Mexican culture and do not want America's culture to be changed. But this is hardly the sort of reason that would create an obligation on the part of, for example, Mexican nationals not to act in a way that might very slightly influence American culture to become more similar to Mexican culture.

Compare again the situation of native-born citizens. Take the case of a native-born citizen who engages in cultural practices of precisely the sort that the critics of open immigration are worried about. Perhaps this individual frequently speaks a language other than English, practices a non-Judeo-Christian religion, and wears clothing and eats food more typical of some other nation. This individual is influencing the nation's culture in allegedly undesirable ways, just as much as any immigrant. But no one would say that this person is acting *wrongly*. It is not morally wrong, for example, to speak Spanish, even if many other members of your society would prefer that you did not.

This being the case, it could hardly be wrong to migrate to a society merely because after doing so you might behave in exactly the manner of this hypothetical native-born citizen who isn't acting wrongly.

POLITICAL CHANGE

Some advocates of immigration restriction worry that allowing in too many immigrants will change the nation's political system because the immigrants will have different political beliefs from the average native-born citizen, and they will vote accordingly. As a result, the government might become less respecting of

the rights of individuals, it might intervene more in the economy, and it might in general make the country much worse off.[9]

Might this help to explain why it might be morally wrong for individuals with certain political beliefs to migrate to the United States? Here, I agree with one premise of this argument: I think it is morally wrong to vote in favor of policies (or to vote for politicians who mostly support policies) that would violate the rights of individuals and otherwise render the country worse off.[10] But this has no bearing on whether it is wrong to migrate illegally. Illegal immigrants are not legally entitled to vote and do not vote; thus, even if they have political preferences that would be morally wrong to implement, this is not a reason for individuals to refrain from migrating illegally. Even if an illegal immigrant were somehow voting (through fraudulently posing as a citizen, as it would have to be), the most we could say would be that the immigrant was obligated to stop the fraudulent voting—not that he was obligated to leave the area.

In sum, proponents of immigration restriction typically offer four arguments for restriction, all based on purported negative consequences of too much immigration: economic disadvantage for low-skilled workers, fiscal burdens for government, undesired cultural change, and harmful political change. Even if these are good reasons for the government to try to limit immigration, none of them could render immigration morally wrong on the part of undocumented immigrants themselves.

Malum Prohibitum

But all of this so far overlooks what may be the main motive for those who condemn illegal immigration. Many appear to hold that only *illegal* immigration is harmful or wrong; legal immigration is perfectly acceptable. Thus, during the third Republican presidential primary debate in 2015, Donald Trump promised voters, "We're going to build a wall, we're going to create a border. . . . We're going to have a big, fat, beautiful door right in the middle of the wall; we're going to have people come in, but they're coming in legally."[11] This suggests that the purpose of Trump's infamous proposed wall was not to prevent people from entering the country, but merely to induce people to enter legally rather than illegally.

Regardless of what Trump or other political candidates have in mind, might it be that *illegal* immigration is wrong, even though legal immigration that is identical in all other respects would not be wrong?

Many philosophers and legal theorists hold that there is a general obligation to obey the law, precisely because it is the law. In other words, even if there is initially no moral reason for doing *x*, once the government passes a law requiring

x, it then becomes morally obligatory to do *x*. This obligation, usually called "political obligation," is generally thought to be only a prima facie obligation: it is not that one must obey all laws, no matter what; it is only that one should normally obey the law, in the absence of strong countervailing moral reasons. In addition, those who defend the idea of political obligation do not hold that political obligations exist in every state. Rather, states must meet some minimum conditions to be legitimate; perhaps a state must be reasonably democratic, reasonably effective at protecting its citizens' rights, and so on, before citizens will be obligated to obey that state.[12]

Even with these sorts of qualifications, other philosophers remain skeptical of the notion of political obligation—some hold that one is never obligated to do (or refrain from doing) anything merely because that action is required (or forbidden) by law.[13] In other words, some hold that there are no *mala prohibita* actions; there are only *mala in se* actions. I confess my sympathy with this position. And of course if there are no political obligations, then illegal immigration cannot be wrong due merely to its being illegal. However, I will not press that argument here. My thesis in the present section is this: even if we assume that there are political obligations *in general*, these obligations do not apply to potential immigrants; aspiring immigrants still have no obligation at all to obey immigration restrictions.

To determine who is obligated to obey which laws, we must first understand *why* political obligations would exist, if they did. Why should we obey the law in general? To answer that, we must look at the leading accounts that have been offered by defenders of political obligation. I shall argue that even if one of these theories were correct, immigrants would still have no duty to obey immigration restrictions.

THE SOCIAL CONTRACT

Perhaps the most famous account of political obligation is the social contract theory. This theory holds that individuals have a sort of contract (usually said to be a "tacit" or "implicit" contract, not an explicitly stated contract) with the state or with each other that requires individuals to generally obey the law and pay taxes so that the state can provide social order.[14]

If this account of the grounds of political obligation is correct, *who* would have political obligations? Presumably, it would be the parties to the contract. Now, on the social contract theory, different nations with different governments all have their own social contracts. Individuals are bound by the social contract of their own society, not by the social contracts of other societies, since they have only signed on to their own society's social contract. Therefore, before actually migrating, individuals have no obligation to obey the laws of their desired destination country as such.[15] So it is not wrong to illegally immigrate.

What about the situation after one has illegally migrated, and thus joined a new society: does one then have an obligation to start obeying the laws of one's new home society—and therefore to deport oneself back to one's country of origin?

Again, no. The reason is that there are limits to what a contract can reasonably require of its signatories. In any contract, each party to the contract agrees to do something in return for some "consideration" (that is, some benefit provided by the other parties). For instance, when I sign a rental agreement, I agree to pay my landlord some money, in return for the use of the apartment that I am renting. Importantly, if the other party does not hold up her end of the deal, then I am no longer bound to uphold my end either. If the landlord locks me out of the apartment so that I am never able to use it, then I am no longer obligated to pay the rent specified in the rental agreement.

In light of this, there cannot be a contract in which the thing that one agrees to do is something that by its very nature excludes one from the benefit one is supposed to receive from signing the contract. For example, there could not be a rental agreement according to which the tenant may never use the apartment that he is renting in any way. There could not be an employment contract in which the employee agrees never to cash her paychecks (and she is to receive no other compensation). And there could not be a social contract in which one agrees to completely exclude oneself from the society.

Undocumented immigrants receive the benefits of social cooperation in the society to which they have migrated. In return for these benefits, it could reasonably be held that they must agree to pay taxes and *generally* follow the laws of that society. But it could not reasonably be held that, in return for the benefits of living in a particular society, they must agree to exclude themselves from living in that very society. Therefore, the social contract cannot require undocumented migrants to obey the nation's immigration laws.

FAIR PLAY

According to another popular contemporary theory, political obligations arise out of duties of *fair play*.[16] This theory holds, roughly, that if one receives a fair share of the benefits of some cooperative scheme, then one is morally bound to do one's part in maintaining that scheme. To fail to do so would be unfair to the other people who participate in the cooperative scheme because it would leave them to shoulder the costs of maintaining the scheme while one reaps the benefits without sharing the costs. In the case of a society under a national government, doing one's fair share in maintaining social order means paying one's taxes and generally obeying the laws established by that government; that is why one must obey the law. This account differs from the social contract theory in that, according to the fair play account, one can have a duty to follow the laws even if one has never *agreed* to do so.

This account fails to generate an obligation to obey immigration laws, for much the same reason that the social contract theory fails: advocates of the fair play account generally agree that it is a condition on having a fairness-based obligation to support a cooperative scheme that one receive one's fair share of the benefits of that scheme. If a cooperative scheme provides great benefits for others, but these others exclude you from receiving those benefits, then you have no obligation to support the scheme; indeed, it would be unfair to ask you to do so.[17] This being so, it seems that it could not reasonably be held that doing one's fair share to support a cooperative scheme would entail doing something that inherently excludes one from receiving the benefits of that scheme.

Here is an example that may be used to motivate the fair play account of political obligation. Fifty people are in a lifeboat that is slowly taking on water. The boat needs to be bailed out, otherwise it will sink and everyone will drown. However, it is not necessary that *everyone* bail for the boat to remain afloat; if several people refuse to bail, the others will still be able to bail fast enough to keep the boat afloat. If you are on this boat, you should help to bail the water because to sit by and let others do all the work would be unfair.

But now imagine that someone on the boat proposes that keeping the boat afloat would be easier if the boat were not carrying so much weight. If five people were to jump out into the ocean, things would be easier for all the remaining passengers. This person proposes to you that *you* jump out of the boat. Furthermore, suppose he claims that you are morally obligated to do this based on considerations of fairness, because jumping overboard would be doing your fair share to keep the boat afloat.

This last claim would be absurd. It is absurd to claim that fairness requires you, as part of the cost of sustaining a cooperative scheme, to do something that inherently excludes you from receiving any of the benefits of that scheme. Similarly, we could not reasonably claim that fairness demands that some person—as her part in maintaining social order—should exclude herself entirely from receiving any of the benefits of living in our society.

THE AUTHORITY OF DEMOCRACY

Some philosophers hold that the democratic process confers a special legitimacy on its products, such that individuals are obligated to obey laws that were made democratically. According to Thomas Christiano, this is because the democratic process is uniquely suited to realizing the value of *equality*.[18] Democracy is the only social system that gives each person an equal voice in the process whereby social rules are made; as a result, to realize our obligation of treating one another as equals, we must respect and support democracy. And this, says Christiano, entails obeying the laws that emerge from the democratic process.

As Christiano recognizes, this theory implies certain limits on political obligation: because the authority of democratic government is based on the value of equality and the obligation to treat other human beings as equals, this authority cannot extend to laws that explicitly treat people unequally, or that were made by a process that treats people unequally.[19] For example, prior to the passage of the Thirteenth Amendment, the United States had laws that recognized and enforced slavery. These laws lacked legitimacy for two reasons: first, because they explicitly treated slaves unequally by denying them the basic rights recognized for nonslaves; second, because the process by which these laws were made did not take into account the judgments of African Americans, who were not permitted to vote. Either of these conditions would suffice to delegitimize the laws: the fact that a large group of people directly and severely affected by the law were denied political participation would by itself make the law illegitimate; in addition, even if blacks had been permitted to vote, it still would have been illegitimate for the majority to vote to oppress the minority since the very basis for the legitimacy of voting lies in the value of equality. Thus, there was no obligation at all for individuals in the slavery era to respect the laws regarding slavery.

The immigration laws are a similar case: first, the large group of people who are most seriously affected by these laws—those who wish to immigrate—are denied political participation rights. They cannot vote on the relevant laws, nor on the political leaders who make the laws, since they are not citizens of the nation they wish to migrate to. Second, immigration restrictions in any case explicitly treat certain potential immigrants unequally by denying to them the rights and benefits that are accorded to citizens. The reasons commonly given for restricting immigration are explicitly inegalitarian: advocates of restriction appeal to a desire to place the interests of native-born citizens ahead of the interests of would-be immigrants.

Given these facts, potential immigrants could not reasonably be asked to respect the immigration laws. One cannot fairly be asked—and certainly not on the basis of egalitarian, democratic values—to respect laws that one had no say in and that explicitly deny one rights and benefits that others receive, based solely on one's location of birth.

CONSEQUENTIALISM AND FAIRNESS

Some philosophers defend political obligation on consequentialist grounds.[20] The state provides large benefits to society. To provide these benefits, the state needs a certain amount of respect for its commands. If too many people disregard the law, at some point social order will collapse. To prevent that, individuals are obligated to generally obey the law.

There are a number of ways of interpreting this argument. The first interpretation of the argument is this: if you disobey the law, your individual action

may actually cause social order to collapse. Perhaps social order is precariously balanced and your act of disobedience will be the one that causes society to tip over into chaos.

But this argument is extremely implausible on empirical grounds. Eleven million people are already violating the immigration laws. Millions of other law violations occur every year. According to FBI statistics, over the two decades from 1993 to 2012, there were 29 million violent crimes and 209 million property crimes, and that is to say nothing of immigration violations, drug crimes, traffic violations, and all the miscellaneous other law violations that occur.[21] Still, society shows no sign of collapsing. So the suggestion that a single individual may bring down social order merely by committing an additional law violation is incredibly farfetched. We cannot say that there is literally zero chance of this, but the likelihood is so small that to use this as a basis for a judgment of moral wrongness would be comparable to arguing that it is morally wrong to staple a stack of papers near other people because a freak stapler accident might wind up killing someone.

A second interpretation of the consequentialist argument is this: Granted, your individual action will not cause a collapse of social order. But if everyone violated the law whenever they wished, then social order would collapse. And one might think that it is wrong to behave in a way that would have very bad consequences if everyone behaved that way. Therefore, you should not violate the law.

But this argument, as stated, is also indefensible. There are many perfectly benign individual actions that would have terrible consequences if everyone did them. If, for example, everyone decided to spend most of their life doing philosophy, the social consequences would be disastrous, since there would be no farmers, doctors, factory workers, sanitation workers, and so on. But this does not mean that it is morally wrong for me to spend most of my life doing philosophy. Similarly, the mere fact that it would be bad if everyone constantly violated the law does not show that it is wrong for me to violate a particular law on a particular occasion.

The third and final interpretation of the argument is this: it is wrong to behave in a way that you would not want everyone else to behave, *if* (as is often the case) in so doing you would be treating others unfairly.[22] This is a defensible moral principle. For example, suppose there is a newly planted lawn in a public place in your neighborhood. You would like to walk across this lawn to save a bit of time, but you would not want everyone in the neighborhood to walk across the lawn since that would ruin the lawn. (Assume that the overall benefit to the neighborhood of having the lawn is greater than the total benefit you and your neighbors would get from saving time by cutting across the lawn.) In this case, most people intuit that it is (slightly) wrong to cut across the lawn.

How does the lawn example differ from the philosophy example? If everyone became a philosopher, this would be bad, just as it would be bad if everyone

walked across the lawn. The difference is that when I become a philosopher, this is not particularly unfair to the rest of my society. They can happily take other jobs. But, intuitively, when you walk across the newly planted lawn, this *is* unfair to your neighbors who, out of desire to preserve the lawn for everyone, walk the long way around.

The question, then, is whether undocumented immigrants are treating someone unfairly when they violate the immigration laws. Perhaps illegal immigration is unfair to most native-born citizens because most native-born citizens are taking the trouble, and accepting the restrictions on their liberty, to obey the law, while illegal immigrants are flouting the law for their own personal benefit. Thus, the law-abiding native citizens are taking on the cost of sustaining social order, while the illegal immigrants benefit from that social order while refusing to bear the costs.

But as we saw above in the discussion of fair play, this particular unfairness claim is unreasonable. It is unreasonable because the burdens of obeying the law are so lopsided: for undocumented immigrants, obeying the law would require them to completely exclude themselves from our society and to return to a society in which their prospects will be extremely diminished for the rest of their lives; nothing close to that is being asked of the native-born citizens. The lopsided demand is itself extremely unfair to the immigrants. What would be fair would be for everyone to undertake comparable burdens. Undocumented immigrants who follow all the laws *other than* the immigration laws are undertaking approximately the same burden that law-abiding native-born citizens undertake. They thus are not treating the natives unfairly.

Who else might illegal immigration be unfair to? Perhaps, as is sometimes suggested in the popular political discourse, illegal immigration is unfair to *legal* immigrants because legal immigrants had to fill out paperwork, pay fees, and wait for months or years for the government's permission to enter. Illegal immigrants bypass all those costs.

But if there is an unfairness here, it is not an unfairness perpetrated by the illegal immigrants—*they* are not treating anyone unfairly. The illegal immigrants, for example, do not cause or exacerbate the costs faced by legal immigrants. Rather, those costs are imposed by the state. So it seems that if anyone is treating legal immigrants unfairly, it is the state.

It does not matter for the argument here whether you consider the costs of legal immigration to be fair or not. The point is that, whether fair or unfair, the costs are imposed by the state, not by illegal immigrants; therefore, these costs cannot contribute to making it the case that illegal immigrants are treating someone unfairly.

A third suggestion is that illegal immigration is unfair to the people who want to immigrate but do not because the government never grants them permission. One might think it unfair that they never realize their desire to migrate,

while others do simply because these others are more willing to violate the law. But again it is not enough to find that there is an unfairness here. The question is whether *the illegal immigrants* are *treating someone unfairly*. It is not the illegal immigrants who are preventing other would-be immigrants from migrating; it is the state that is preventing would-be immigrants from migrating. So if we think there is an unfairness here, we should again lay this unfairness at the feet of the government, not the illegal immigrants.

FREEDOM OF (NON)ASSOCIATION

Perhaps illegal immigration is wrong because it violates the free association rights of citizens. As an analogy, suppose a group of socialist philosophers decides to form a club open only to socialist philosophers. The members exercise their free association rights by joining the club and by collectively excluding nonphilosophers and nonsocialists from the club. If a libertarian economist gains access to the club by fraudulently posing as a socialist philosopher, then the economist will be wrongfully violating the free association rights of the club members.

Some consider this analogous to illegal immigration.[23] The citizens of a country have a right to freedom of association, which includes the right to refuse to associate with certain others or to set conditions on their association with others. One way they exercise these rights is through laws, made through the democratic process, that set limits and conditions on immigration. So perhaps by immigrating illegally, one violates the rights of the citizens of one's destination country by forcing them to associate with one.

To evaluate this argument, we must first clarify three points about what freedom of association does and does not entail:

1. Under freedom of association, you have the right (with the agreement of the other party or parties) to enter into, or (unilaterally) to eschew, certain relatively *robust* sorts of associations. For instance, you can decide, with the consent of the other party, to live with a particular person, or you can unilaterally decide not to live with that person. You can decide, with the consent of the employer, to work for a particular company, or you can unilaterally decide not to work for that company. You can decide, with the other party's consent, to have a particular friend, or you can unilaterally decide not to have that friend.
2. Freedom of association does not, however, give you the right to demand that others avoid very *tenuous* sorts of "associations" with you. Suppose, for example, that you have a neighbor named "Marvin" whom you no longer wish to be neighbors with. You have the right to avoid Marvin by controlling where *you* live, but you cannot avoid Marvin by controlling where *Marvin* lives. You cannot demand that Marvin leave the neighborhood just so that you won't

have to have him as a neighbor. Still less can you demand that Marvin leave the entire country merely so that you won't be forced to "associate" with him in the extremely weak sense of being in the same country as Marvin. No one violates your rights merely by being in the same extremely broad geographical area as you without your permission.

3. Freedom of association also does not give one the right to control what sorts of robust associations other people consensually form with each other. If you don't like Marvin, you can decide not to be friends with Marvin; but you cannot demand that no one else in your society befriend him. You can perhaps decide not to trade with Marvin[24]—not to sell anything to him or buy anything from him—but you cannot demand that other members of your society refuse to trade with Marvin.

With these points in mind, we can return to the case of immigration. If you dislike associating with certain foreign-born people, you have the right, under freedom of association, to refuse to work for them, befriend them, marry them, or trade with them. If a foreign-born person forces you to work for him, he will be violating your rights. You do not, however, have a right to demand that these people not *be in the same country* as you—that is far too tenuous of an "association" for you to claim it as an infringement on your freedom. Nor have you the right to demand that other members of your society refuse to hire these foreign-born individuals, refuse to rent property to them, or otherwise refuse to trade with them.

When individuals illegally immigrate, they do not typically force anyone to hire them, rent them property, or otherwise trade with them. Rather, they find willing employers, landlords, and other trading partners. (And those with the most robust associations, such as employers, are often perfectly well aware of the immigrants' legal status.)[25] Third parties who prefer not to trade with undocumented immigrants are not forced to do so, nor can these third parties claim it as a violation of their rights that the immigrants are trading with someone else, or that the immigrants are merely in the same country as them. Therefore, undocumented immigrants are not, as a rule, violating anyone's free association rights.

Conclusions

The primary concern of most immigration discourse is political: what should be the government's policy with respect to immigration? By contrast, my concern in this chapter has been ethical: what should an individual do if she wishes to migrate but is legally barred from doing so by the government of her desired destination country? In particular, is it permissible for her to migrate illegally?

The answer is yes, illegal migration is perfectly permissible. Undocumented immigrants are not harming anyone in any way that would typically be consid-

ered wrong; it is not, for example, wrong to compete with other people economically. Undocumented immigrants also have no duty to obey the immigration laws, according to any of the leading theories of why individuals are obligated to obey the law in general. For instance, undocumented immigrants cannot be accused of violating the social contract because no reasonable social contract could contain a clause requiring one to completely exclude oneself from the society to which that contract applies. Nor can undocumented immigrants be said to be treating others unfairly by violating the immigration laws; on the contrary, the immigration laws unfairly demand that some individuals be excluded from our society and all its benefits, while others face no such exclusion, solely based on the accident of one's initial birth location. Nor, finally, can the democratic process legitimize the immigration laws since the authority of democracy rests on the idea that democracy treats all individuals as equals and gives an equal voice to all who are affected by the laws. Those who wish to immigrate are the people most affected by the immigration laws, yet they are entirely excluded from the democratic process, and they are explicitly and severely discriminated against by those laws; hence, whatever legitimacy there might be for democratically made laws in general cannot be extended to the immigration laws in particular.

I conclude with a few remarks about why the question we have just addressed is interesting. First, it is of obvious practical import to individuals who are considering migrating illegally. I have not addressed whether doing so is wise or feasible, but it is at least of interest to learn that illegal migration is not impermissible. Second, the question bears on what attitude the rest of us ought to take toward illegal immigration and the people who engage in it. Having learned that illegal immigration is not wrong, we should eschew negative reactive attitudes, such as blame or resentment, directed at illegal immigrants. Finally, the question bears on how we should treat undocumented immigrants—for example, whether we should endeavor to punish them. Since illegal immigration is perfectly ethically defensible, it seems that it would be on its face unjust to punish a person for immigrating illegally. Thus, to return to the politicians' comments quoted in the opening section, we should not deny undocumented immigrants a pathway to citizenship (if they would otherwise have had such a pathway) simply because they broke the law, since a person should not in general be punished for doing something that is perfectly ethically permissible. In short, illegal immigrants have not done anything wrong, cannot justly be blamed, and should not be punished in any way.

NOTES

1. Kent Klein, "Obama, Visiting Las Vegas, Pushes Immigration Reform," *Voice of America*, January 29, 2013.

2. National Public Radio, "Rep. Labrador Could Shape House Plan On Immigration," February 7, 2013.

3. *State v. Horton*, 51 S.E. 945 (1905).

4. Michael Huemer, "Is There a Right to Immigrate?," *Social Theory and Practice* 36 (2010): 429–61.

5. See the survey results reported in Julian Simon, *The Economic Consequences of Immigration* (Oxford: Blackwell, 1989), 357–61; and Bryan Caplan, *The Myth of the Rational Voter* (Princeton, N.J.: Princeton University Press, 2007), 58–59.

6. National Research Council, Panel on the Demographic and Economic Impacts of Immigration, *The New Americans: Economic, Demographic, and Fiscal Effects of Immigration*, ed. James P. Smith and Barry Edmonston (Washington, D.C.: National Academies Press, 1997), 6–7; George Borjas, *Heaven's Door: Immigration Policy and the American Economy* (Princeton, N.J.: Princeton University Press, 1999).

7. National Research Council, *New Americans*, 10–11; Congressional Budget Office, "The Impact of Unauthorized Immigrants on the Budgets of State and Local Governments" (Washington, D.C.: Congressional Budget Office, 2007). But note that fiscal impacts are generally thought to be positive at the federal level; see Francine D. Blau and Christopher Mackie, eds., "The Economic and Fiscal Consequences of Immigration" (Washington, D.C.: National Academies Press, 2017), 11. The overall fiscal impact of illegal immigration is controversial, and estimates are sensitive to assumptions on which there is no consensus.

8. Peter Brimelow, *Alien Nation: Common Sense about America's Immigration Disaster* (New York: Random House, 1995), 178–81; Yael Tamir, *Liberal Nationalism* (Princeton, N.J.: Princeton University Press, 1993), 158–60; Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983), 38–41.

9. Llewellyn H. Rockwell, "Open Borders: A Libertarian Reappraisal," *LewRockwell.com*, November 10, 2015.

10. For discussion, see Jason Brennan, *The Ethics of Voting* (Princeton, N.J.: Princeton University Press, 2011), chap. 3.

11. CNBC, "Third Republican Primary Debate—Main Stage—October 28, 2015 on CNBC," www.youtube.com/watch?v=wpCOloV3DZk, 10:14–10:40.

12. For more on the concept of political obligation, see Michael Huemer, *The Problem of Political Authority* (New York: Palgrave Macmillan, 2013), 5–14.

13. John Simmons, *Moral Principles and Political Obligations* (Princeton, N.J.: Princeton University Press, 1979); Huemer, *Problem of Political Authority*.

14. See John Locke, *Second Treatise of Government*, ed. C. B. Macpherson (1690; Indianapolis: Hackett, 1980); Thomas Hobbes, *Leviathan*, ed. Richard Tuck (1651; Cambridge: Cambridge University Press, 1996). Stephen Kershnar invokes the social contract theory in his defense of immigration restrictions in "There Is No Moral Right to Immigrate to the United States," *Public Affairs Quarterly* 14 (2000): 141–58.

15. Cf. Javier Hidalgo, "Resistance to Unjust Immigration Restrictions," *Journal of Political Philosophy* 23 (2015): 450–70, 461.

16. George Klosko, *The Principle of Fairness and Political Obligation* (Lanham, Md.: Rowman & Littlefield, 1992); Klosko, *Political Obligations* (Oxford: Oxford University Press, 2005).

17. For a similar point, see Hidalgo, "Resistance to Unjust Immigration Restrictions," 461.

18. Thomas Christiano, *The Constitution of Equality: Democratic Authority and Its Limits* (Oxford: Oxford University Press, 2008).

19. Christiano, *Constitution of Equality*, chap. 7.

20. David Hume, "Of the Original Contract," in *Essays, Moral, Political, and Literary* (1777; Indianapolis: Liberty Fund, 1987), 465–87, 480.

21. Federal Bureau of Investigation, "Crime in the United States 2012," https://ucr.fbi.gov/crime-in-the-u.s/2012/crime-in-the-u.s.-2012.

22. For discussion, see Huemer, *Problem of Political Authority,* 86–88.

23. Walzer, *Spheres of Justice*, 39–41; Kershnar, "There Is No Moral Right to Immigrate," 143; Christopher Wellman, "Immigration and Freedom of Association," *Ethics* 119 (2008): 110–14.

24. This is controversial since in some cases it would be illegal to refuse to trade with Marvin, depending on your reason for disliking him. For instance, if you dislike Marvin because of his race or national origin, you cannot legally therefore refuse to hire him or rent him an apartment.

25. See, for example, Francis Wilkinson, "Why I Hire Undocumented Workers," *Bloomberg*, March 12, 2014.

CHAPTER 3

Toward a Politics of Freedom of Movement

CHARLES HELLER, LORENZO PEZZANI,
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In 2015, more than one million individuals survived their treacherous journeys across the Mediterranean Sea. Determined to arrive on EU territory, they landed their boats on Greek shores or were rescued from the waters off North African coasts and transferred to Italy or Spain. Not only did the unauthorized travelers overcome the EU's external governmental bulwark and its complex meshwork of visa restrictions, migrant-deterrence agreements with third countries, carrier sanctions, and (other) extraterritorial forms of border policing, they also defied Europe's internal attempts to regulate their precarious mobilities. In concerted mass marches under the rallying cry "open the border" or through imperceptible border transgressions, various inner European borders were crossed. For several months from spring 2015 to early 2016, borders were pried open by those stubbornly insisting to move on, and freedom of movement was not a mere utopian cry but a practice enacted by the hundreds of thousands. During this time, we caught glimpses of how the social reality imposed on precarious migration by restrictive policies was being turned on its head, with state agencies and police forces facilitating that very freedom of movement they had attempted to stem for so long—as when the so-called Balkan *route*, along which migrant movements had been violently opposed, was turned overnight into a *corridor*, through which migrants could move openly.[1]

The human cost of the exercise of this freedom was, however, tremendous, and has been exacerbated by the desperate attempt of states to regain at least the semblance of control over the unruly movement of migrants that had prompted one of the most severe political crises of the European Union to date.[2] As we write, the moment of openness has come to a close and what was dubbed the "long summer of migration" has turned into its winter: states have exercised unprecedented levels of violence across the entire trajectories of illegalized migrants, and a record number of 5,096 deaths were documented in the Mediterranean Sea in 2016.[3] The mass dying continued in 2017, with 2,826 officially counted deaths as we write in October.

This chapter is guided by our witnessing of and embeddedness in these dynamics and radical transformations—transformations that have opened the field of the possible for the better and the worse. We write with the enthusiasm and hope spurred by these transgressive enactments of freedom of movement that we have witnessed, and continue to witness, all around the world, but also out of rage and despair in the face of the violence that is being perpetrated against precaritized migrants every day, at and in the name of borders, resulting in the absurd loss of lives at sea. As researchers and activists, we have sought to understand the evolving border policies and practices since the Mediterranean was "reopened" by the Arab uprisings in 2011. We have also contributed to a broad range of initiatives seeking to contest and prevent the deaths of migrants at sea, all the while supporting migrants' unauthorized movement across borders and their demand for freedom of movement. As such, we seek to conjoin the temporality necessary for a careful analysis of the evolution of border policies and critical theoretical reflection with the pressing urgency for intervention and transformation because we know that every day that goes by without a fundamental reorientation in the policies, practices, and discourses that have shaped the current border regime will bring us closer to the next shipwreck.

In what follows we first ground our exploration of the politics of freedom of movement in the conflictual reality of the Mediterranean border regime. We then discuss different approaches to freedom of movement—those of *open* versus *no* borders—as a way to specify our own approach, which emphasizes the perspective of migrants and articulates practices in the present with a future-oriented political horizon. Finally, we outline a series of antinomies—apparently unresolvable contradictions between terms—we believe a politics of freedom of movement must address to sharpen both its long-term horizon and daily practices.

The Contested Mediterranean Border Regime

The Mediterranean has become a space of friction,[4] across which illegalized migrants' trajectories have continuously evolved in response to the deployment by states of increasingly militarized means to police their turbulent movements, seeking—but never quite succeeding—to bridle them into orderly and governable mobilities.[5] Uneven forms of mobility control have, of course, long existed and certainly long before state boundaries started acquiring the centrality they now have in organizing global territoriality. In order to understand the current condition of the Mediterranean as a border zone, however, one would need to start from the period of European imperial expansions toward the sea's southern shores in the nineteenth century, when colonial and imperial domination established and institutionalized an increasingly selective and unequal mobility

regime.[6] While during the nineteenth century it was mostly European settlers who migrated toward colonized territories, as of the beginning of the twentieth century the northbound movement of colonized populations—especially those under French rule—toward metropolitan territories took prominence. This phase was marked by successive moments of partial opening and closure of borders—with restrictions always leading to forms of evasion by migrants and early cases of deaths at sea.[7]

While, as Achille Mbembe has noted, "struggles for freedom and self-determination have always been intertwined with the aspiration to move unchained," the formal independence of countries located on the southern shore of the Mediterranean put an end neither to growing political and economic inequality in the Mediterranean region, nor to the hierarchized mobility regime that has been an inextricable part of such inequality.[8] The newly independent states perpetuated the fragmentation and compartmentalization introduced by the carving of colonial boundaries, making them intangible.[9] Furthermore, while the colonized received formal equality through their newly independent states, these were inscribed within unequal power relations that perpetuated domination. The inherent inequality of birthright citizenship and the uneven access to mobility have in turn become fundamental ways in which inequality has been reinforced between populations of the "Global North" and the "Global South," but they have also become objects of the continued claims of the formerly colonized to freedom and equality in the postindependence world.[10]

The phenomenon of illegalized migrants crossing the Mediterranean with the aim to reach the territory of the EU and the deaths at sea during this perilous part of their journey became, however, a structural and highly politicized phenomenon as of the end of the 1980s, when, in conjunction with the consolidation of freedom of movement within the EU through the Schengen Agreement, visas were increasingly denied to citizens of the Global South. As in the past, legal closure did not end "unwanted" migration but rather caused migration to operate in an increasingly clandestine form, which in turn justified the deployment of exceptional means of control across what became a vast frontier zone.[11] The Mediterranean Sea has thus become the liquid terrain of an intense *mobility conflict* that has resulted in the perpetuation of a deeply hierarchized mobility regime: speedy and secure for certain goods and privileged passengers, slow and deadly for the unwanted. Those who succeeded in arriving safely on EU territory were subjected to precarious legal conditions, either waiting in the limbo of an asylum request or joining the ranks of a vast illegalized labor force.

By the end of 2010, due to Europe's reinforced militarization of the maritime frontier and the externalization of control to dictatorial regimes located at the EU's periphery, the Mediterranean had been increasingly closed down to unauthorized migration. The Arab uprisings, however, marked a clear break in the consolidation of the Mediterranean migration regime, inaugurating a phase of

increased turbulence. The fall in early 2011 of the Ben Ali regime in Tunisia and the Muammar Gaddafi regime in Libya allowed migrants to at least temporarily "reopen" maritime routes to the European continent. Moreover, the war that has engulfed Syria since 2012 has led to the largest exodus since the Second World War. While the majority of population movements unleashed by conflicts in the region have occurred on the southern shore of the Mediterranean, record numbers of people have reached the EU by boat and equally unprecedented numbers of deaths at sea have been recorded: more than 15,200 deaths between 2014 and October 2017, which make the Central Mediterranean now the deadliest crossing in the world.[12]

After the already evoked "long summer of migration" that marked the peak in migrants' capacity to collectively overcome the barriers that states had erected in their paths, the border regime has recently been gaining the upper hand again in its desire to exclude and (b)order mobility.[13] The deal struck between the EU and Turkey in March 2016 and the erection of fences along the "Balkan routes" have made the Aegean border much less porous. This deal has come to be regarded as a model for agreements with other Mediterranean countries. Especially Libya, the main remaining departure point in Northern Africa, has become the focus of renewed border externalization efforts by the EU, which is seeking to prevent migrants' departures by training the local coast guards, funding detention centers for migrants, and militarizing the country's southern border.[14]

Besides these preemptive efforts, EU institutions and member states have instigated or reinforced wide-ranging measures to police, criminalize, and deport those migrant populations already within its territories, especially those understood as undeserving of protection. Dividing lines between "genuine refugees" and those deemed to be mere "economic migrants" have been drawn ever more sharply, resulting for many in a degradation of rights that had long been struggled for, or in nationality-based deportations, significantly undermining the individual right to asylum.[15] Finally, a crucial characteristic of this phase of violent closure that we may call the *winter of migration* has been the criminalization of practices of nongovernmental solidarity with migrants—including rescue at sea—through which European citizens and migrants have openly contested the trajectory toward border closures.[16]

In short, the contemporary moment is marked by the attempt of the EU and its member states to reimpose order within the European border regime at any cost—and no costs seem too high in 2017, a year with several significant national elections. At the same time, it is indispensable to remind ourselves that this is an unstable order, subject to continuous contestation. All three major Mediterranean routes remain partly open, with migrants beginning to divert their movements to new ones, such as the Black Sea. Moreover, in autumn 2017, thousands of young Tunisian "Harragas" crossed the sea from the Tunisian coast toward

Italy, a route that had not been frequented to such an extent in several years.[17] The EU's collaboration with its southern neighbors remains fragile, and despite threats of criminalization, acts of violence exercised in the name of border closure continue to spark anger and various forms of countermobilization. Thus, despite the violent border reinforcements that we currently witness, no end of the crisis of Europe's border regime is in sight and ruptures will resurface with vigor soon again, as they always have in the past. The past thirty years of policies of closure teach us that only a policy that takes the reality of migrant movement as a starting point and seeks to provide a framework for it to unfold may put an end to the precaritization of migrants' entire trajectories and in particular to migrant death at sea. In this sense, the only alternative to the current border regime is one that enables migrants to exercise their *freedom of movement* at a less harrowing human cost.

Toward a Politics of Freedom of Movement: Working through the Open Borders versus No Borders Opposition

The call for freedom of movement is, above all, a crucial way to politicize discussions around migration and mobility, a focal point around which several struggles at and around borders can converge and take an affirmative, forward-looking dimension. Yet, within the migrant solidarity movement, as well as in critical migration and border studies, freedom of movement has rarely been formulated beyond the slogan and thus a number of difficult questions are evaded, which in turn weakens this claim. In our chapter, rather than offering a blueprint for policy change, we begin to explore a series of open questions. First of all, what exactly do we mean by this demand? Are we demanding (a policy founded on) freedom of movement for all? And how would this demand relate to claims for open borders, or even no borders? Would it translate into a universal right to mobility? What are the differences between these demands, and what are the antinomies and ambivalences they must face and account for? Second, while a demand for policy change is often located on a rather normative level, describing ideal policies and emphasizing what might be their positive effects, how can we contribute to further developing a call for freedom of movement from the perspective of *practices* enacted both by migrants themselves and by solidarity networks? Under what conditions can the knowledge that we produce as critical migration and border scholars, that is, knowledge *about* migration and its control, produce transformative effects *in* the politics of migration and affect the future practices of all those actors who together determine who can move and in what condition? This brings us to a last question: how can we begin to imagine the contours of a movement that would be able to bring about such transformation? These are the questions that crisscross this chapter as a

discontinuous thread. They have emerged for us initially from the necessity to think through our own engagement in these issues as militant researchers, "from within particular struggles, as a 'what to do' question."[18] It is in this spirit, then, that we approach and delve into them, not with the aim of resolving them, but rather in the hope that this chapter might offer some guidance to those who face the daily dilemmas when operating within and against the border regime.

In order to do so, we must consider that a variety of migrant (solidarity) movements and scholars have mobilized alternative visions to the current bordered reality of our world and have called for the opening of borders, the undoing of borders, and the right to mobility. While all these perspectives are generally inspired by a demand for (more) freedom of movement, they have roots in very different political, conceptual, and ethical traditions and should not be unduly conflated or taken as equivalents, as indeed they often are. Before going any further, then, we feel the need to briefly reflect on some of these concepts and demands, and point to the ways in which they relate and at times overlap, but also significantly differ or even stand in tension to one another. This task seems all the more important when realizing that activists and migrant rights advocates have never had a monopoly over calls for (more) freedom of movement. The risk of what is usually perceived as an emancipatory call to being reappropriated by neoliberal worldviews to increase the commodification of labor and competition between workers (which we discuss in more detail later) constitutes one of the antinomies of freedom of movement, and makes a finer grained analysis of these notions all the more urgent.

OPEN BORDERS

One of these demands is a call for "open borders," which envisions no, or hardly any, restrictions on cross-border migration while at the same time not necessarily striving toward a borderless world. Demands for open borders are not equivalent to those for no borders, since (state) control at border crossings would still occur, for example in order to sift out potential threats and to retain control and knowledge over who and what enters. As Harald Bauder has shown, there exists a great variety of open borders scenarios—in fact, "the idea of open borders and free movement has proponents from across the political and philosophical spectrum."[19] Arguing from the realm of moral philosophy, Joseph Carens makes the case that borders violate universal ideas of equality by subjecting human beings to differential treatment, simply based on birthright privileges, or the lack thereof. "From the premise that all human beings are of equal moral worth," that the freedom to move is an "important human freedom in itself," and that limiting such freedom demands moral justification, Carens argues that borders should normally be open, save for instances where restrictions can be justified, for example to keep out terrorists or invading armies.[20] Open borders

are also advocated for, though for different reasons, from what Bauder refers to as "market-economy" and "political-economy" positions. The former, following neoliberal logics of the self-regulating free global market, understand borders as disruptions to the "labor market and therefore cause economic inefficiencies," while the latter understand borders as precisely integral to the contemporary capitalist system, in that they "have been tools of labor control and exploitation," leading to a segmentation of "labor by locking vulnerable and exploitable workers into countries with low wage and labor standards, or by deskilling and criminalizing a considerable portion of the workers who are able to cross the border."[21]

Moving toward practical suggestions, Antoine Pécoud and Paul de Guchteneire have advanced one of the most developed formulations of a scenario of open borders with regard to migration as a rights-based approach. They argue that without the right to enter, the right to leave is meaningless, so that "an individual authorized to leave his country but not accepted by any other country would see his right to emigration violated."[22] While, following Article 13 of the Universal Declaration of Human Rights (1948), every human being "has the right to freedom of movement and residence within the borders of each State" as well as "the right to leave any country, including his own, and to return to his country," in the absence of any state in the world that allows for completely free immigration, the universal right to leave seems hollow. Moreover, for Pécoud and de Guchteneire, existing forms of migration control not only reinforce existing inequalities in the world and fail to do what they preach, but also "offer no sustainable and convincing perspective on how to face migration challenges in the long term." In proposing mobility as a right, they do not simply seek to add "one more right to a long list of rights; rather it is about fostering respect for existing human rights."[23]

While their approach is more complex than we can account for here, the broad lines of their argument in favor of open borders and the right to mobility are formulated as follows. First, on the level of the risks faced by migrants, opening borders would allow them to reach Europe via formal and safe transport means, and they would no longer need to have recourse to the service of smugglers and seek to evade controls, which would in turn put an end to deaths of migrants at sea and throughout their precarious trajectories. Second, against the fear of "invasion" that is often mobilized to rebuke an open borders scenario, Pécoud and de Guchteneire argue that while there might be important movements of people in an initial phase following the removal of border controls, they would soon diminish—as was the case, for example, after the fall of the Berlin Wall and after each phase of EU enlargement. The possibility of unconstrained border crossing would also make it easier for migrants to return to their countries of origin should they not manage to secure the opportunities they had hoped for. Third, the irregular status of illegalized migrants would vanish. As a

consequence, the segmentation of the labor market through legal status would at least be less rigid, and the absence of an illegalized status would diminish the risk of "social dumping" and unfair competition in relation to already present workers in any given territory. Fourth, because migrants would no longer need to move across borders and within states in ways that aim to evade state control, opening borders would paradoxically offer states more rather than less control over the populations on their territory, also enabling them to detect more effectively threats of terrorism and criminality that policy makers today often associate with "clandestine migration." Fifth and finally, allowing migrants from the Global South to come live and work in the Global North would operate as a means of redistribution, both through the increased income of these individual migrants and through the sending of remittances—which, at an estimated $350 billion in 2010, already constituted more than three times the yearly amount of international development aid.[24]

While we acknowledge that these arguments undoubtedly hold some appeal and can be at times productively mobilized, and while we also appreciate the careful responses of Pécoud and de Guchteneire to some of the difficulties that would emerge from a policy of open borders (and to which we will return in the section on antinomies), we also see limitations to this perspective. Many advocates for open borders, arguing from a minority position in societies and institutions in which hostility toward migrants is widespread, make their case for open borders sound as rational and nonthreatening as possible. We, however, are suspicious of the tendency to portray an open borders scenario as a consensual "win-win-win" solution that would contemporaneously favor migrants, states, and the global economy. Such a perspective, we argue, does not sufficiently account for the power relations that shape the current mobility conflict and the border regime that underpins it. This regime is in fact beneficial to a number of actors, which is certainly one of the reasons why it has proven so durable. It has served, primarily, to produce a large mass of "illegals" who can be easily exploited and toward whom the popular discontent generated by neoliberal globalization can be cunningly redirected.[25] In addition, these accounts of the beneficial consequences of opening borders are excessively future oriented and focused on state policies, while having little to say as to how a multiplicity of actors can contribute to erase the incredible violence of borders in our present time and to reconfigure power relations—in society at large, within national and international institutions, and in the global political economy—in a way that might allow for such a policy shift to occur.

NO BORDERS

In contrast, a no borders perspective offers a radical response to these limitations. While this perspective has its roots in and draws its references from a

plurality of migrant-led struggles,[26] a transnational network of activists from Germany, Italy, the United Kingdom, and other European countries rallied around this call that first emerged in response to a European Council meeting that brought together fifteen European prime ministers in Tampere, Finland, in 1999. The supranational turn in the government of migration marked by this summit was thus echoed by the transnationalization of migrant solidarity activism coalescing around the no borders banner.[27] The no borders perspective is by definition partisan and willfully antagonistic. In their influential work, Bridget Anderson, Nandita Sharma, and Cynthia Wright argue that a no borders approach "*is* part of a revolutionary change" that would "[call] into question the legitimacy of the global system of national states itself and the related global system of capitalism."[28] The no borders approach situates borders and the demand to abolish them within a radical critique of capitalism. For the three authors, borders are central "to capitalist social relations," so that a no borders position would necessarily have to distinguish "itself from calls for open borders made by the Right, calls that centre on the availability of persons made mobile largely because of prior instances of dispossession and displacement."[29] Similarly, Harsha Walia conceptualizes no borders as a confrontation and undoing of "border imperialism," the "mass displacement of impoverished and colonized communities resulting from asymmetrical relations of global power, and the simultaneous securitization of the border against those migrants whom capitalism and empire have displaced."[30] No borders takes a radically critical attitude toward the state form—"to refuse the border is also to refuse state sovereignty," Natasha King suggests.[31] For Angela Mitropoulos, a no border politics "wants to erase the border, both in an epistemological sense and in a political sense," in contrast to an open border politics that does not do away with the state, which would continue to subject people to categorizations (asylum seekers, refugees, economic migrants, citizens, and so forth).[32] For her, no borders forms "a very corrosive and practical way of thinking about politics, without thinking like a state."[33]

In addition to inscribing the struggle against borders within a radical critique of the current political and economic order, the no borders perspective also differs from that of open borders in that it is much more focused on present struggles than on future-oriented policy change—which would stand in tension with its very demand to abolish states. In this sense, more than a distant policy horizon like open borders, no borders functions as a banner for radical practices in the present. Contrary to the accusation of being utopian which is often used to readily dismiss this position, a no borders perspective is "eminently practical and is being carried out daily."[34] In this sense, it underlines the non-utopian, always already existing *reality* of freedom of movement. From a no border perspective we might argue that what is utopian is, on the contrary, the "absurd fantasy of territorially-defined so-called 'national' states—the fantasy of total control over presumably separate and discrete human populations and our mobility."[35]

We concur with Sandro Mezzadra and Brett Neilson when they write that struggles tentatively grouped under the loose label of no borders "have provided some of the most radical and inspiring instances of political action around and on borders with implications extending far beyond migrant issues."[36] Practices of direct action that we associate with this network have not only importantly informed our own perspective but also been crucial elements and driving forces of some of the initiatives that we have been part of, such as the Alarm Phone project that runs a hotline for travelers in distress at sea.[37] By providing direct support to illegalized migrants, this project constitutes somehow the maritime segment of a larger "underground railroad" that by enabling migrants' movement across borders seeks to transform the Mediterranean into a space of contentious politics here and now.[38] While acknowledging that what we have summarily defined here as a no borders perspective contains in fact a multiplicity of different positions, we agree with Mezzadra and Neilson when they also caution that "no border struggles sometimes approach the border as an object to be eliminated rather than as a bundle of social relations that involve the active subjectivity of border crossers as much as the interdictory efforts of border police and other control agencies."[39] The risk that we see in this reification of the reductively understood border as a discrete entity is that of losing sight not only of the multiple bordering technologies and functions targeting the entire trajectories of illegalized migrants, but also of the multifarious forms of boundaries that crisscross the entire social body along the hierarchical lines of class, race, cultural difference, and so forth. In turn, the call to abolish borders or even the state entirely limits possibilities for complex and tactical collaborations with those in positions to transform institutions, policies, and rights.

THE AUTONOMY OF MIGRATION AND BEYOND

The perspective of the Autonomy of Migration (AoM) can perhaps suggest a way out of some of these limitations. By offering a lens to better attune to the multiple forms of friction and constraint that migrants encounter, including (but not reduced to) those imposed by state borders, AoM allows us to conceive the *articulation* of struggles in the present with the formulation of future-oriented political horizons, as well as that of multiple forms of direct action with policy change. The AoM literature, associated with autonomous Marxism, has become a significant and influential intervention in the field of migration studies.[40] As its name suggests, the notion of autonomy is central to this approach that emphasizes the subjective practices of migrants and the political dimension of their transgressive movements, while abandoning the long-held characterization of migration as mere reaction to economic, political, and social pressures and push-pull factors.[41] Escape is not considered here "to be a passive, weak and irresponsible way to deal with an unfolding social conflict or one's own situation," but

rather as "a form of creative subversion capable of challenging and transforming the conditions of power."[42] In a sense, AoM accomplishes a "Copernican revolution" in the field of migration similar to the one autonomous Marxism accomplished for the field of labor.[43] While the latter claimed the primacy of workers' struggles in shaping the changing logic and operations of capital, AoM starts from the movements, constraints, and struggles of migrants instead of borders. It makes us, as Mezzadra and Neilson have argued, by riffing on the title of James C. Scott's seminal book, "see like a migrant."[44]

This shift in perspective has in our view fundamental implications in terms of political practice and vision. Consistent with a no border approach, AoM sees in fact demands for freedom of movement grounded in an understanding of migrant practices, a freedom first and foremost claimed and seized by migrants in their daily struggles against borders and other constraints. We also propose to center our understanding of the *politics of freedom of movement* on the very real experiences of migrants and their disobedient movements as a struggle unfolding in the present. As we will see in more detail further on, adopting the subjective position of migrants in the analysis of (and struggle against) the border regime, what appears is the entire field of conflicts that act on and regulate migratory movements: not only the physical, territorial limits that demarcate sovereign territory, but also the multiplicity of fault lines that constrain migrants' movements and shape their existence across space and time. As Mezzadra and Neilson have argued, "only from the subjective viewpoint of border crossings and struggles can the temporal thickness and heterogeneity of the border be discerned."[45] Instead of focusing on borders a priori, AoM enables us precisely to make visible these multifarious processes, sites, and modalities, thus going beyond the risk of reification of the border.

While the AoM perspective thus offers a powerful analytics to envision the sites and modalities of a politics of freedom of movement, we would like to think further here about the temporalities in which these struggles operate, asking how present practices can (be) articulate(d with) future visions. We can begin to consider this relation through the writings of Frantz Fanon on the colony, which he saw as a compartmentalized society separating populations along the intertwined lines of race and class, as epitomized by the separation of the "European quarters" and the "native quarters."[46] In turn, Fanon urged the colonized to overcome these compartments when "deciding to embody history in his own person, he surges into the forbidden quarters."[47] However, for Fanon this critique of compartmentalization and the view to resisting it in practice also began to define the contours of a decolonized society, arguing that "this approach to the colonial world, its ordering and its geographical layout will allow us to mark out the lines on which a decolonized society will be reorganized."[48] Similarly, critical analysis of and direct struggles against the border regime can serve as "tactical pointers" to locate specific targets in the dispositif of the government

of migration—carrier sanctions, militarized borders, detention camps, deportations, to name a few key nodal points.[49] In turn, while these struggles may already enable a bit more freedom in migrants' movements in the present, they also point toward a future world less marked by these regimes of control. In this sense, the analysis produced by critical migration and border studies and the struggles against borders in the present such as those enacted by the no borders movement may define negatively the contours of a future-oriented vision.

The concept of "split temporality" put forward by Sandro Mezzadra emphasizes the need to articulate present and future temporalities of struggle. While he argues that struggles against detention centers can be articulated according to a principle of "double temporality," that is, as two successive steps—in the sense of thinking "let's first reform the detention centers and then, at a later time, we'll close them," they can also operate according to a "split temporality," which formulates both demands at the very same time.[50] This might seem at first sight just a nominal difference, but it expresses a much deeper and important distinction. What Mezzadra highlights is not only the need for long-term objectives to guide daily political activity, but also the need for a radical simultaneity between these two moments, since "particular tactics that are deployed, and the way in which they will be deployed, must necessarily be shaped by [a] strategic goal."[51] The gap between these temporalities is not one that can ever be fully bridged since, as Foucault has incisively argued, resistance to a particular modality of power leads not to the end of power relations, but rather to their repositioning. In this sense, the horizon of freedom of movement always recedes even as practices of freedom tend toward it.[52]

These considerations have crucial implications also when addressing the present injustices of the border regime and building toward different futures. In the absence of attempts to combine tactical and strategic considerations, we discern considerable risks. For example, to come back to the situation in the Mediterranean, when comparing the work of the nongovernmental actors Médecins Sans Frontières (MSF) and Migrant Offshore Aid Station (MOAS) in the Mediterranean, we see how MSF frames their search and rescue operations as momentary tactical interventions, while at the same time calling for a radical transformation of the European border regime. MSF is explicit and vocal in describing its intervention as a critique of the retreat of state-led search and rescue means as well as a critique of state policies that force migrants to resort to smugglers in the first place, thus calling for legal avenues for "safe passage." MOAS, in contrast, depoliticizes precarious sea crossings, puts itself at the service of European states and authorities, and conceives of its work as highlighting the long-term potential for the outsourcing of maritime border enforcement practices to private organizations.[53] What in practice might appear as similar interventions can point to distinct and even divergent strategic goals through the specific ways in which they are framed and exercised.[54] The aim of tending

toward the horizon of safe passage may also lead an organization like MSF to consider more radical operations—such as maritime evacuations—as migrants continue to die despite nongovernmental rescue at sea and as their presence has come to be embedded within the practices of states.[55]

Working through the Antinomies of Freedom of Movement to Multiply Sites and Modes of Migrant Struggles

In the previous section, drawing on both the open and no border perspectives but seeking to overcome some of their limitations, we have sought to formulate a politics of freedom of movement as a political lens, emphasizing the need to start with migrants' everyday struggles over mobility and their contestations of the multiple forces that restrict their movements, including but not limited to state-imposed borders, while, at the same time, engendering a vision of different futures to come. In this section, we explore the antinomies—apparently unresolvable contradictions between terms—that emerge from the future-oriented visions of the opening or erasure of state borders to further define a politics of freedom of movement that can already be taken up today. We argue that the core problems that emerge from these demands in relation to capital, social boundaries, and the limits of democracy are grounds not to reject them, but rather to further embed them within multiple sites and modalities of struggle.

(UN)FREE MOVEMENT

A first antinomy of freedom of movement concerns the relation between state borders and capital, and the role this plays in struggles around labor. We noted in our discussion of open borders that this call has emanated from opposing traditions of economic thought—both from a left-leaning political economy perspective and from the neoliberal free market camp. The latter's view is well captured by the 1984 position of the *Wall Street Journal*: "If Washington still wants to 'do something' about immigration, we propose a five-word constitutional amendment: There shall be open borders."[56] The demands for (more) freedom of movement have come to be increasingly integrated by proponents of migration management within international organizations such as the International Organization for Migration (IOM), United Nations Development Programme (UNDP), and World Trade Organization (WTO), which are marked by a neoliberal agenda.[57] In this perspective, which follows the model of the neoliberal homo economicus "who must be let alone," migrant workers should be enabled to pursue their own economic (self-)interests and instincts unrestrained by borders.[58] As a result, as Michael Samers argues, even when the calls for freedom of movement stem from actors on the left, they easily fall into the

logic "of anti-statist liberal economists."[59] Étienne Balibar echoes this position, arguing that rather than constituting a new freedom, "an absolute opening or suppression of borders . . . would only give rise to the extension of a savage capitalism in which men are definitively brought to and tossed out of production sites like commodities, even like simple useful or useless raw materials."[60] While this might lead some to abandon the demand to open or abolish borders, we argue it should lead us instead to insist on a critical understanding of "freedom" and migration within global capitalism and articulate practices that seek to struggle around labor conditions and global redistribution with a politics of freedom of movement.

Various "unfree" historical migration regimes have been perceived as radically different to the emergence of so-called free labor.[61] However, against the historical narrative that sees a linear development toward progressive freedom (from slavery abolition to the almost mythical figure of "free migrant"), different mobility regimes have constantly been applied as a means of forcefully moving populations, keeping them in place, or constraining and channeling their movement.[62] When a particular regime has been challenged—such as slavery—its demise has led to other regimes that are still far from qualifying as "free," such as indentured or guest worker regimes. Furthermore, while liberal understandings of freedom often reduce their critique to the interventions of states, a Marxist critique of freedom rather sees a fundamental dimension of unfreedom at the heart of the relation between labor and capital. Within global capitalism, "freedom" appears as a chimera insofar as, as Marx incisively noted, within capitalism those who have been deprived of their means of production are "free" subjects in a very particular way: they are free to sell their labor on the market or starve.[63] This is equally true for migration: within global capitalism, the freedom of migrants is framed by the necessity to sell their labor on the world market that is across borders. In this respect, even if juridically and politically free to move on the grounds of policy of open borders or even their erasure, migrant laborers would be socially unfree, for with regard to migration, the dictatorial nature of migration policies (which we will discuss later) is always also supplemented by the dictatorship of capital.[64] While, in line with the AoM perspective, we certainly recognize the irreducibility of the experience of migration to the forces of capital, and the way migration also constitutes a crucial means of insubordination of labor, of escape from exploitative labor conditions or relegation, and of resistance to global inequality, we also do not deny the violence of capital in "tossing" men and women about global space. The perspective of the politics of freedom of movement is precisely located in this conflictual and ambivalent relation between labor and capital.

A politics of freedom of movement must then by necessity target not only the violence of state borders, but also the violence of capital that migrants encounter across their entire trajectory—including the conditions they initially left. The

demand and politics of freedom of movement thus must also include demands for a *right to immobility*—or a right to stay, that is, a right not to be uprooted and displaced by political and economic turmoil that is the outcome of the (capitalist) world system.[65] This demand, which certainly requires further theorization, has emerged within several migrant rights organizations working on migration between Africa and Europe, such as the Association Malienne des Expulsés or Afrique-Europe-Interact. For such organizations, struggling toward freedom of movement also entails struggling against the expressions of the highly uneven world system within which migrants' movements are ambivalently inscribed, such as large-scale land grabs in Africa.[66] Furthermore, a politics of freedom of movement that seeks to contribute to a more just world cannot escape addressing the relation between migrant workers and those whose presence supposedly precedes theirs. As it has in many historical contexts, today capital uses discriminated migrant labor as part of its arsenal to threaten workers already present in a particular territory and uses the latter's fear to undermine migrants' rights all the while increasing its own freedom to impose deregulated labor conditions on multiple scales. As such, the demand and practice of freedom of movement needs to be articulated with policies and practices that pursue a reversal: the increase in the bargaining power and freedom of labor—migrant or not—and imposition of constraints on capital instead.[67] While national labor unions have historically had an ambivalent relation to migrant workers, increasingly there are examples of solidarity and novel alliances, for example with the recent struggles of the *sans-papiers*.[68] New transnational strategies of labor struggles have also been developed, such as the transnational "migrant strike" that took place in Italy and France in 2010, and most recently in the United Kingdom in February 2017. Inspired by migrant mobilizations in the United States in 2006 that had formed under the banner of "A Day without Immigrants" and were repeated in February 2017, this strike served as a platform for "migrants to gain center stage in their struggles against exploitation and for the right of freedom of movement—not only of their generalized contribution to maintaining wealth in society as workers but as the expression of their power of disruption."[69] All these examples point to the necessity for a politics of freedom of movement to take into account the complex ways in which capital shapes and constrains migration and puts borders to work.

NO BORDERS—MORE BOUNDARIES?

A second antinomy of freedom of movement concerns the question of the relation between state borders and social boundaries, and how the demise of controls over the first would affect the latter. In his theorization, Balibar has argued that state borders are "overdetermined" by other geopolitical divisions and social and racial boundaries, and as a result are "polysemic" in that they may constrain

or enable populations differently depending on their position within this matrix of divisions and boundaries.[70] The polysemic characteristics of borders imply "different experiences of the law, the civil administration, the police and elementary rights" for different individuals and groups of people in terms of social class, as Balibar notes, but certainly also along racialized and gendered lines.[71]

What this entails, in turn, according to critics of the open and no border perspectives, is that abolishing the control of people's movement across state borders would not lead to the erasure of these social boundaries, and as a result we could well expect to see them become reproduced in different ways, among others, in access to work, housing, and social rights. This was the dystopian vision Michael Walzer pointed to more than thirty years ago, arguing that "to tear down the walls of the state is not . . . to create a world without walls, but rather to create a thousand petty fortresses."[72] Balibar in turn has argued that the abolition of state control over borders "would probably only correspond, in a world like ours (and for the foreseeable figure), to forms of what Deleuze called the 'society of control' or globalized police governmentality."[73]

In fact, we can easily recognize that even if the walls of states have not been torn down, we have already witnessed the rise of multiple petty fortresses, guarded by proliferating and overdetermined boundaries. The categories of class, race, and gender that are differentially policed through migration policies and border controls have been replicated in the urban fabric and labor markets of all "global cities"—which have become migrant metropolises,[74] dividing not only distinct spaces (slums and relegated neighborhoods on the one hand, gated communities, high-value city centers, and the transport infrastructures that connect them on the other), but also distinct temporalities for the (dis)appearance of certain working populations.[75] Social boundaries are further reproduced within the labor market, even in the absence of discriminatory status. Meanwhile, the form of citizenship itself is being partly unpacked and fractured along multiple lines, as within the neoliberal state formally being a citizen is no longer sufficient ground for entitlements.[76]

At the same time, these dynamics do not serve as grounds to refrain from the demand for freedom of movement. Rather, they entail that a politics of freedom of movement cannot stop at the undermining of state borders and the disseminated bordering practices they give rise to, but must seek to contest already in the present the multiple social boundaries that overdetermine the way borders operate and that the latter reinforce in turn. States and their borders can thus not be a sufficient target for a politics of freedom of movement, which should instead, in addition to the tearing down the walls of "fortress Europe," strive to shred to pieces as well the thousand petty fortresses neoliberal globalization has erected at multiple and intertwined scales.

Decentering our gaze from state borders also allows us to perceive the importance of multiple jurisdictional and administrative boundaries that fragment

global political space, cutting within, through, and beyond state borders. While these multiple boundaries may add friction to the movement of migrants, they may also be mobilized productively in the pursuit of a politics of freedom of movement. For example, the city has emerged as a significant scale for such a politics. The current surge in sanctuary movements and cities of refuge in the United States, Canada, Spain, Italy, and elsewhere, while internally diverse, may point to political practices that, in some sense, make the proliferation of borders productive.[77] This "new municipalism" may serve in fact to ground at the level of the city rights that are denied by states and not enforced by international organizations, thus disrupting the state's disseminated policing of borders.[78]

UN/DEMOCRATIC BORDERS?

The third antinomy we explore concerns the relation between state borders and the limits of democracy. Balibar has long underlined the "nondemocratic"—we would like to say dictatorial—nature of borders, which is the very condition for otherwise supposedly democratic states to exist.[79] Borders, he argues, represent an extreme and essentially antinomical case of institutions. For, at least in principle, they must give the state the possibility of controlling the movements and activities of citizens without themselves being subject to any control. They are, in sum, the point where political participation gives way to the rule of police. Borders and migration policies then have also a dictatorial dimension in a very simple and immediate sense: migrants have no control over the definition of the laws and policies that concern their crossing of the borders of states of which they are not citizens. This is only accentuated today by the fact that people fleeing political persecution have lost the protection of their "own" state of origin, and that even if states of the Global South wished to represent the interests of their citizens with regard to migration, they are in a highly uneven relationship with those of the Global North. In this sense, the structural dictatorial dimension of all migration policies becomes in these conditions the dictatorship of the richest states on earth over the movement of the populations of the poorest, instilling a de facto regime of global apartheid across the globe's multiple centers and peripheries,[80] but also, as Achille Mbembe has recently noted, imposing the conditions under which populations *within* relegated areas can move—or not.[81] As a result, Mbembe continues, "the unequal redistribution of the capacities to negotiate borders on a global scale becomes a key feature of our times."[82] The dictatorial dimension of the border regime is further proven by the impossibility of imposing it onto illegalized migrants without repeated recourse to violence that is subcontracted to actual dictatorships outside of Europe—such as Turkey or Egypt today. As a result, even a policy of open borders that should, in principle, enable more freedom for migrants would continue to retain a dictatorial element as long as migrants are excluded from its definition.

In response to this problem, instead of simple openness or eradication, Balibar has proposed to *democratize borders*: to put the institution of the border "at the service of men and submit it to their collective control, make it an object of their 'sovereignty,' rather than allowing it to subject them to powers over which they have no control (when it does not purely and simply serve to repress them)."[83] More concretely, he has advocated for "a multilateral, negotiated control of their working by the populations themselves (including, of course, migrant populations)," within "new representative institutions" that "are not merely 'territorial' and certainly not purely national."[84] In effect, this would entail a process of both constitution and destitution, for it would involve the stripping of the exclusive prerogative of states to control migration—which after all only has a recent history—and its partial handing over to a newly constituted transnational forum in which migrants could take part.[85] Balibar's proposal involves the invention and elaboration of a form of "nomadic" or "diasporic" citizenship, a partly delocalized citizenship independent of territory that would include "the right to freedom of movement and its correlate, the right to residence."[86]

Balibar's gestures toward the right to freedom of movement allow us to come back to the right to mobility proposed by Pécoud and de Guchteneire as discussed earlier, but focus less on the content of the right than on the political process of its formulation and application, which may point in the direction of the democratizing of borders. We have little faith in the outcome of processes led by the "international community" of states and their international agencies, such as the Global Compact on Migration currently developed by UN agencies, dominated as they are by the interests of powerful states and capital. We are, however, interested in the ways in which these institutions and their norms can, at times, be seized by other forces. Already within the current international system, a process that would emerge from actual processes of organizing and struggle against the border regime and that would lead to the formulation of a right to mobility is imaginable.[87] An international convention on the right to mobility could be drafted through a broad and multilocal process led by migrants and migrant solidarity organizations, following which it would be presented to the UN and its member states. Under pressure from broad movements of support, these would sign this convention, which would enshrine the right to move across and within borders of all states, albeit with particular safeguards—for example, if the mobility of some leads to the forced displacement of others.[88] Once enshrined in international law, this right to mobility would be the basis on which states formulate policies that seek to enable migrants' freedom of movement. While like any right, the right to mobility would never be fully realized, it would become a further tool for migrants and migrant solidarity movements to use so as to impose—if necessary through litigation—the realization of this right on states.

In tentatively proposing the formulation of a new right to mobility, we are not simply reverting to the perspective of open borders and its future-oriented pol-

icy proposals that are dissociated from practice. Neither are we giving into the hegemonic discourse of rights and rights-based approaches, a hegemony that we see as problematic also within the migrant solidarity and rights movement. We do believe, however, that rights and rights discourses can be used tactically and politically according to what Robert Knox has defined as a "principled opportunism," "where—in order to undercut the individualizing, legitimating perspective of law—international law is consciously used as a mere tool, to be discarded when not useful."[89] In thinking through the process of formulation and application of the right to mobility, we are inspired by Boaventura de Sousa Santos and Cesar Rodriguez-Garavito's concept of "subaltern cosmopolitan legality," with its emphasis on the combination of legal and illegal strategies, and its emphasis on political mobilization for the success of rights-centered strategies.[90] What is crucial here is that the law, and its transformation, is not an end in itself, but rather a node in a much wider political process that seeks to shape its formulation and application. This right to mobility could be instituted only through the support of broad social movements and consultative processes, and in turn, once instituted, it would be of use only if seized by social movements to pressure state governments and monitor its application. While this movement could embody the imperative to democratize borders and guide the formulation of state policies consistent with the principle of freedom of movement, it would necessarily need to be articulated in combination with the other levels of struggle that we have outlined above.

Conclusion

Starting from our engagement with the analysis of and ongoing struggles against the Mediterranean border regime, we have sought to sharpen the perspective of a politics of freedom of movement, both and simultaneously as a future-oriented political vision and as a series of practices in the present, undoing binary divisions between means and ends, tactics and strategies. Taking as a starting point the movements of migrants and the multiple sites and forms of constraint they encounter, we demonstrated that the simple opening or removal of borders would be insufficient. By advancing a politics of freedom of movement, we have drawn attention also to the fact that the proliferation of boundaries is accompanied not only by a diffusion of violence but also by a multiplication of "pressure points," where political contestations can intervene. In our view, the struggle toward the horizon of freedom of movement starts with the unauthorized movement of migrants, and demands, as the no border perspective does, that one seek to contest, block, and undermine all the bordering practices that are deployed in the aim of governing migrants' movements. But this must be articulated with a broad range of practices and demands on other levels, which might not always

appear directly related to the struggles around migration and borders. These include antiracist, decolonial, and feminist struggles, the environmental justice movement, struggles directed against uneven development and neoliberalism to counteract the undoing of social citizenship, and those based on the forging of new alliances, such as those between migrant and nonmigrant workers for better labor conditions. Crucially, as Mbembe has recently argued in a bold and yet grounded attempt to craft an "Africa-centered international migration policy for the 21st century," a struggle for freedom of movement can exist only insofar as it is also a struggle to complete the project of decolonization (including the decolonization of Western categories of thought such as "national interest," which frame the global debate on migration at the level of policy) and to systematically undo the historical legacy of racial violence from an abolitionist perspective.[91] The process of formulation and application of a right to mobility may also serve as a useful node around which to weave together these struggles.[92]

Returning to the sense of urgency with which we began this article, we wonder how the perspective we outlined bears on the current situation at the maritime borders of the EU, where we know that in the next few months thousands more will lose their lives. Certainly, it does not remove this bleak prospect. The horrendous loss of life, which is the structural outcome of the enduring mobility conflict of which the Mediterranean Sea is the main line of fracture, is bound to continue as long as the colonial asymmetries that gave rise to the current uneven mobility regime are perpetuated, and the demands for freedom, equality, and autonomy of the people of the Global South continue to reverberate through the movement of migrants. And yet even as we face the prospect of border deaths—continuously multiplying during this winter of migration—we remain inspired by mass mobilizations of the "long summer of migration," and the wave of migrant-led mobilizations and solidarity actions that have, since late 2015, opened up the field of the possible in unprecedented ways, with a broad range of different actors joining the long-standing struggle for freedom of movement. In the Central and Eastern Mediterranean, a nongovernmental fleet committed to search and rescue has formed a contentious presence to both rescue thousands of distressed travelers every month and increasingly speak out against EU (in)actions that create maritime mass suffering. Along the so-called Balkan routes, from the Greek islands up to Austrian and German railway stations, political groups but also "ordinary" citizens have created a myriad of initiatives, small and large, formal and informal, in support of the hundreds of thousands who trespass into spaces not deemed theirs. Spaces of protest and refuge have also appeared across and inside the whole European continent. From migrant-led occupations of a public square in Germany to the occupation of the City Plaza Hotel in Athens, from the welcoming of migrants in the small village of Riace in southern Italy to the activities of groups such as Lampedusa in Hamburg, new forms of cohabitation and resistance have emerged to unsettle the static image of "Fortress Europe." Connecting

all these dots, we can see emerge a vast if fragmented chain of solidarity that seeks to throw off the shackles restraining migrants' movements. The vision of a politics of freedom of movement can help unite these many discreet struggles within a common frame, and provide them with a direction that strengthens their resolve in ongoing struggles and enables new alliances.

This common horizon is all the more important since, when considering the outcomes of our involvement in struggles at the maritime frontier over the last years, we must also recognize the limits of our hand-to-hand struggle with the border regime. It is high time for the migrant solidarity movement to take stock of its extraordinary advances but also of its failures, and consider how to better articulate the multiple forms of direct struggle against the violence of borders with a broad and combative movement geared at deep social and political change, ranging across the Global North and the Global South, and bridging the divide between the struggles surrounding migration and other social struggles. The point is not to wait for an ideal world of global justice to be realized to finally enshrine freedom of movement, but to make the daily struggles for freedom of movement part of this transformation. Beginning to imagine the contours of such a broad movement is challenging. Coming together to face the harsh cold of the winter of migration and gazing together toward the horizon of freedom of movement will be the condition to regain the initiative and spark the summer of migration into existence again.

NOTES

1. Bernd Kasparek, "Routes, Corridors, and Spaces of Exception: Governing Migration and Europe," *Near Futures Online* 1 (March 2016), http://nearfuturesonline.org/routes-corridors-and-spaces-of-exception-governing-migration-and-europe/.

2. We use the generic term "migrant" to describe all people who cross state borders to reside in another country, independently of their exact motives or their possible future recognition as refugees. We use the term "illegalized" migrant to highlight that illegality is a product of state law rather than an intrinsic feature of migrants. See Harald Bauder, "Why We Should Use the Term Illegalized Immigrant" (RCIS Research Brief No. 1, 2013).

3. Bernd Kasparek and Mark Speer, "Of Hope: Hungary and the Long Summer of Migration," *Bordermonitoring.eu*, September 9, 2015.

4. Anna Tsing, *Friction: An Ethnography of Global Connection* (Princeton, N.J.: Princeton University Press, 2005).

5. Efthimia Panagiotidis and Vassilis Tsianos, "Denaturalizing 'Camps': Überwachen und Entschleuningen in der Schengener Ägäis-Zone," in *Turbulente Ränder: Neue Perspektiven auf Migration an den Grenzen Europas*, ed. Transit Migration Forschungsgruppe (Bielefeld: Transcript Verlag, 2007), 82.

6. Manuel Borutta and Sakis Gekas, "A Colonial Sea: The Mediterranean, 1798–1956," *European Review of History* 19, no. 1 (2012): 1–13.

7. Julia Clancy-Smith, *Mediterraneans: North Africa and Europe in an Age of Migration, c. 1800–1900* (Berkeley: University of California Press, 2011); Andrew Kerim Arsan,

"Failing to Stem the Tide: Lebanese Migration to French West Africa and the Competing Prerogatives of the Imperial State," *Comparative Studies in Society and History* 53, no. 3 (2011): 450–78; Clifford Rosenberg, *Policing Paris: The Origins of Modern Immigration Control between the Wars* (Ithaca, N.Y.: Cornell University Press: 2006); Olivier Le Cour Grandmaison, "Colonisés-immigrés et 'périls migratoires': Origines et permanence du racisme et d'une xénophobie d'Etat (1924–2007)," *Cultures & Conflits* 69 (2008): 19–32.

8. Achille Mbembe, "Africa Needs Free Movement," *Mail & Guardian*, March 24, 2017.

9. Achille Mbembe, "Scrap the Borders That Divide Africans," *Mail & Guardian*, March 17, 2017.

10. Giovanni Arrighi, Terence Hopkins, and Immanuel Wallerstein, "1989, The Continuation of 1968," *Review* 15, no. 2 (1992): 221–42.

11. Nicholas De Genova, "Spectacles of Migrant 'Illegality': The Scene of Exclusion, the Obscene of Inclusion," *Ethnic and Racial Studies* 36, no. 7 (2013): 1180–98.

12. UNHCR, "Mediterranean Situation," https://data2.unhcr.org/en/situations/mediterranean.

13. Charles Heller and Lorenzo Pezzani, "Ebbing and Flowing: The EU's Shifting Practices of (Non-)assistance and Bordering in a Time of Crisis," *Near Futures Online* 1 (2016), http://nearfuturesonline.org/ebbing-and-flowing-the-eus-shifting-practices-of-non-assistance-and-bordering-in-a-time-of-crisis/.

14. European Council, "Malta Declaration by the Members of the European Council on the External Aspects of Migration: Addressing the Central Mediterranean Route" (2017), http://www.consilium.europa.eu/en/press/press-releases/2017/02/03/malta-declaration/.

15. Ilker Ataç, Stefanie Kron, Sarah Schilliger, Helge Schwiertz, and Maurice Stierl, "Kämpfe der Migration als Un-/Sichtbare Politiken," *Movements. Journal für kritische Migrations- und Grenzregimeforschung* 1, no. 2 (2015): 1–18.

16. Martina Tazzioli, "Who Is (in) Danger(ous)? Criminalizzaione dei rifugiati et délit de solidarité in Europe," *Uninomade*, February 27, 2017; see also our report on the criminalization of search and rescue at sea, "Blaming the Rescuers: Criminalising Solidarity, Re-enforcing Deterrence," *Forensic Oceanography*, June 2017.

17. Alarm Phone, "Mourn the Dead, Respect the Survivors—Create Safe Passages!" (November 1, 2017), http://alarmphone.org.

18. Glenda Garelli and Martina Tazzioli, "Challenging the Discipline of Migration: Militant Research in Migration Studies," *Postcolonial Studies* 16, no. 3 (2013): 245–49.

19. Harald Bauder, *Migration Borders Freedom* (London: Routledge, 2018), 48–49.

20. Joseph Carens, "The Case for Open Borders," *Open Democracy*, June 5, 2015. Carens was one of the early proponents of open borders; see Joseph Carens, "Aliens and Citizens: The Case for Open Borders," *Review of Politics* 49, no. 2 (1987): 251–73.

21. Bauder, *Migration Borders Freedom*, 42–44.

22. Antoine Pécoud and Paul de Guchteneire, "International Migration, Border Controls and Human Rights: Assessing the Relevance of a Right to Mobility," *Journal of Borderlands Studies* 21, no. 1 (2006): 75. This argument is anticipated by Ann Dummett, "The Transnational Migration of People Seen from Within a Natural Law Tradition," in *Free Movement: Ethical Issues in the Transnational Migration of People and of Money*, ed. Barry Brian and Robert E. Godin (University Park: Pennsylvania State University Press,

1992), 169–80; and Phillip Cole, *Philosophies of Exclusion: Liberal Political Theory and Immigration* (Edinburgh: Edinburgh University Press, 2000).

23. Pécoud and de Guchteneire, "International Migration, Border Controls, and Human Rights," 75–76.

24. Jorge Valadez, "Immigration, Self-Determination, and Global Justice: Towards a Holistic Normative Theory of Migration," *Journal of International Political Theory* 8, no. 1–2 (2012): 138.

25. Anthony Messina, *The Logics and Politics of Post-WWII Migration to Western Europe* (New York: Cambridge University Press, 2007), 189–90.

26. Anderson, Sharma, and Wright, for instance, recall how "the popular No Borders cry that 'No One Is Illegal' first arose against Operation Wetback, a 1954 US government program which resulted in over one million people being forced to leave the US for Mexico" and credit the Sans Papiers movement in France of 1996 with "first articulating a contemporary No Borders politics." See Bridget Anderson, Nandita Sharma, and Cynthia Wright, "Editorial: Why No Borders?," *Refuge* 26, no. 2 (2009): 11.

27. William Walters, "No Border: Games with(out) Frontiers," *Social Justice* 33, no. 1 (2006): 21–39.

28. Anderson et al., "Editorial," 12.

29. Anderson et al., "Editorial," 11.

30. Harsha Walia, *Undoing Border Imperialism* (Oakland: AK Press, 2013), 5.

31. Natasha King, *No Borders: The Politics of Immigration Control and Resistance* (London: Zed Books, 2016), 25.

32. Angela Mitropoulos, "Interview with Angela Mitropoulos," *Shift Magazine*, September 2010.

33. Mitropoulos, "Interview."

34. Anderson et al., "Editorial," 12.

35. Nicholas De Genova et al., "The Free Movement of People around the World Would Be Utopian," *Identities* 24, no. 2 (2017): 123–55.

36. Sandro Mezzadra and Brett Neilson, *Border as Method; or, The Multiplication of Labor* (Durham, N.C.: Duke University Press, 2013), 267.

37. See Alarm Phone, http://alarmphone.org.

38. Charles Heller, Lorenzo Pezzani, and Maurice Stierl, "Disobedient Observation," *Spheres* (2017), http://spheres-journal.org/disobedient-sensing-and-border-struggles-at-the-maritime-frontier-of-europe/; Maurice Stierl, "A Sea of Struggle: Activist Border Interventions in the Mediterranean Sea," *Citizenship Studies* 20, no. 5 (2016): 561–78.

39. Mezzadra and Neilson, *Border as Method*, 267.

40. For a brief review of this position, see Ilker Ataç, Kim Rygiel, and Maurice Stierl, "The Contentious Politics of Refugee and Migrant Protest and Solidarity Movements: Remaking Citizenship from the Margins," *Citizenship Studies* 20, no. 5 (2016): 527–44. Key contributions to this perspective include Sandro Mezzadra, "The Right to Escape," *Ephemera* 4 (2004): 267–75; Rutvica Andrijasevic, Manuela Bojadžijev, Sabine Hess, Serhat Karakayali, Efthimia Panagiotidis, and Vassilis Tsianos, "Turbulente Ränder Konturen eines neuen Migrationsregimes im Südosten Europas," *PROKLA—Zeitschrift für kritische Sozialwissenschaften* 35, no. 140 (2005): 345–62; Angela Mitropoulos, "Autonomy, Recognition, Movement," in *Constituent Imagination*, edited by Stevphen Shukaitis, David

Graeber, and Erika Biddle (Edinburgh: AK Press, 2007), 127–36; Yann Moulier Boutang, "Europa, Autonomie der Migration, Biopolitik," in *Empire und die Biopolitische Wende*, ed. Marianne Pieper, Thomas Atzert, Serhat Karakayali, and Vassilis Tsianos (Frankfurt: Campus, 2007), 169–78; Dimitris Papadopoulos, Niamh Stephenson, and Vassilis Tsianos, *Escape Routes: Control and Subversion in the 21st Century* (London: Pluto, 2008).

41. Stephan Scheel, "Das Konzept der Autonomie der Migration überdenken? Yes, Please!," *Movements. Journal für kritische Migrations- und Grenzregimeforschung* 1, no. 2 (2015).

42. Papadopoulos, Stephenson, and Tsianos, *Escape Routes*, 56. This potential for subverting the social order through movement is beautifully captured in the way in which several ancient moralists and philosophers characterized the Mediterranean as a "corrupting sea," believing that the easiness of circulation enabled by the seawaters constituted a threat to the integrity of the social order. See Henk Driessen, "A Janus-Faced Sea: Contrasting Perceptions and Experiences of the Mediterranean," *Maritime Studies* 3, no. 1 (2004): 41–50.

43. Alberto Toscano, "Chronicles of Insurrection: Tronti, Negri and the Subject of Antagonism," *Cosmos and History: The Journal of Natural and Social Philosophy* 5, no. 1 (2009), http://www.cosmosandhistory.org/index.php/journal/article/view/128/240.

44. Mezzadra and Neilson, *Border as Method*, 166.

45. Mezzadra and Neilson, *Border as Method*, 166.

46. Franz Fanon, *The Wretched of the Earth* (New York: Grove Press, 2003), 37–38.

47. Fanon, *Wretched of the Earth*, 40.

48. Fanon, *Wretched of the Earth*, 38.

49. Michel Foucault, *Security, Territory, Population: Lectures at the Collège de France, 1977–1978* (New York: Palgrave McMillian, 2007).

50. Sandro Mezzadra, "Double Opening, Split Temporality, and New Spatialities: An Interview with Sandro Mezzadra on 'Militant Research,'" *Postcolonial Studies* 16, no. 3 (September 2013): 318.

51. Robert Knox, "Strategy and Tactics," *Finnish Yearbook of International Law* 21 (2012): 193–229, 219.

52. Michel Foucault, "A Preface to Transgression," in *Language, Counter-Memory, Practice* (Ithaca, N.Y.: Cornell University Press, 1977). Our formulation also echoes Neil Roberts's theorization of marronage, in which he underlines the agency that exists "prior to and during a slave's dialectical encounter with the stages of liberation and freedom." Neil Roberts, *Freedom as Marronage* (Chicago: University of Chicago Press, 2015), 15.

53. Maurice Stierl, "A Fleet of Mediterranean Border Humanitarians," *Antipode* (2017), doi:10.1111/anti.12320.

54. David Harvey makes a similar point in the context of struggles around wages when arguing that "the difference between a reformist and a revolutionary is not necessarily that you do radical things all the time, but it is that at a given moment, you may all do the same thing, i.e. demand living wage, but you do it with a different objective, and that is as a long-term transition." See "A Conversation with David Harvey," *Logos: A Journal of Modern Society and Culture* 5 (2006), quoted in Knox, "Strategy and Tactics," 219.

55. Heller and Pezzani, "Ebbing and Flowing."

56. Quoted in Antoine Pécoud, "Libre Circulation, de l'idéal au politique," *Revue Projet* 335 (2013): 56.

57. See Martin Geiger and Antoine Pécoud, eds., *The Politics of International Migration Management* (Basingstoke: Palgrave Macmillan, 2010). The UNDP's 2009 report, titled "Overcoming Barriers: Human Mobility and Development," is particularly revealing of the very partial and ambivalent appropriation of the demand for freedom of movement, and has been incisively analyzed by Nicholas De Genova, "The Perplexities of Mobility," in *Critical Mobilities*, ed. Ola Söderström et al. (London: Routledge, 2013).

58. Michel Foucault, *The Birth of Biopolitics: Lectures at the Collège de France, 1978–1979* (Basingstoke: Palgrave Macmillan, 2010), 270.

59. Michael Samers, "Immigration and the Spectre of Hobbes: Some Comments for the Quixotic Dr. Bauder," *ACME: An International E-Journal for Critical Geographies* 2, no. 2 (2003): 213.

60. Étienne Balibar, *We, the People of Europe? Reflections on Transnational Citizenship* (Princeton, N.J.: Princeton University Press, 2004), 176.

61. Adam McKeown, *Melancholy Order: Asian Migration and the Globalization of Borders* (New York: Columbia University Press, 2008).

62. Yann Moulier Boutang, *De l'Esclavage au salariat: Economie historique du salariat bridé* (Paris: Presses Universitaires de France, 1998); Marcel Van der Linden, *Workers of the World: Essays toward a Global Labor History* (London: Brill, 2008).

63. Karl Marx, "Wage Labour and Capital," *Neue Rheinische Zeitung*, April 5–8 and 11, 1849; Jairus Banaji, "The Fictions of Free Labour: Contract, Coercion, and So-Called Unfree Labour," *Historical Materialism* 11, no. 3 (2003): 69–95.

64. Dipesh Chakrabarty, *Provincializing Europe: Postcolonial Thought and Historical Difference* (Princeton, N.J.: Princeton University Press, 2000).

65. David Bacon, *The Right to Stay Home: How US Policy Drives Mexican Migration* (Boston: Beacon, 2013); Tom Van Naerssen, "Imagining the Future of International Border Crossings" (lecture, Geographies of the Future series, University of Bonn, November 27, 2014); Paolo Novak, "The Double Pincer of Migration: Revisiting the Migration and Development Nexus through a Spatial Lens," *Colombia Internacional* 88 (September 1, 2016): 27–55.

66. See Afrique-Europe-Interact, https://afrique-europe-interact.net/605-1-Appelle-Vorschau.html.

67. McKeown, *Melancholy Order*; Harald Bauder, *Labor Movement: How Migration Regulates Labor Markets* (Oxford: Oxford University Press, 2006); Bauder, *Migration Borders Freedom*.

68. Guglielmo Meardi, "Capital Mobility, Labour Mobility, Union Immobility? Trade Unions Facing Multinationals and Migration in the EU" (paper, 1st Forum of the International Sociological Association, Barcelona, September 5–8, 2008); Alain Maurice and Violaine Carerre, "Régularisations choisies," *Plein Droit* 89 (2011): 9–12.

69. Transnational Social Strike Platform, "Transnational Social Strike/Call Out: London Assembly 10th–11th February 2017," https://www.transnational-strike.info/2016/12/22/transnational-social-strike-london-assembly-10th-11th-february-2017-callout/.

70. Étienne Balibar, *Politics and the Other Scene* (London: Verso, 2002), 79.

71. Balibar, *Politics and the Other Scene*, 81. Other proponents of critical border studies have granted more attention to the overdetermination of borders by multiple other social boundaries; see Nick Vaughan-Williams, *Border Politics* (Edinburgh: Edinburgh University Press, 2009).

72. Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983), 39, quoted in Samers, "Immigration and the Spectre of Hobbes," 214.

73. Étienne Balibar, *Equaliberty: Political Essays*, trans. James Ingram (Durham, N.C.: Duke University Press, 2014), 272.

74. Nicholas De Genova, "Border Struggles in the Migrant Metropolis," *Nordic Journal of Migration Research* 5, no. 1 (2015): 3–10.

75. Mike Davis, *Planet of Slums* (London: Verso, 2006); Stephen Graham and Simon Marvin, *Splintering Urbanism: Networked Infrastructures, Technological Mobilities, and the Urban Condition* (London: Routledge, 2001).

76. Aihwa Ong, *Flexible Citizenship: The Cultural Logics of Transnationality* (Durham, N.C.: Duke University Press, 1999); Saskia Sassen, *Territory, Authority, Rights: From Medieval to Global Assemblages* (Princeton, N.J.: Princeton University Press, 2006); Kim Rygiel, *Globalizing Citizenship* (Vancouver: University of British Columbia Press, 2010).

77. Vicki Squire and Jonathan Darling, "The 'Minor' Politics of Rightful Presence: Justice and Relationality in *City of Sanctuary*," *International Political Sociology* 7 (2013): 59–74; Ignasi Calbó and Sunny Hundal, "Sanctuary and Refuge Cities," *openDemocracy*, June 14, 2017.

78. Bauder, *Migration Borders Freedom*; Beppe Caccia, "From Citizen Platforms to Fearless Cities: Europe's New Municipalism," *Political Critique*, June 7, 2017.

79. Balibar, *We, the People of Europe?*, 109.

80. Henk Van Houtum, "Human Blacklisting: The Global Apartheid of the EU's External Border Régime," *Environment and Planning D: Society and Space* 28 (2010): 957–76.

81. Mbembe, "Scrap the Borders."

82. Mbembe, "Scrap the Borders."

83. Balibar, *We, the People of Europe?*, 108.

84. Balibar, *We, the People of Europe?*, 117.

85. McKeown, *Melancholy Order*.

86. Balibar, *Equaliberty*, 273.

87. In thinking through this scenario, we draw inspiration from the process that has given rise to the Declaration of the Rights of Peasants, initially drafted by the international peasant movement Via Campesina and now under negotiation for ratification by states. We thank Christoph Golay for his insights concerning this process.

88. In *Equaliberty* Balibar underlines the parallel of freedom of speech, which, if it does contain particular limits, such as the banning of racist speech, can be turned into its opposite.

89. Robert Knox, "Marxism, International Law, and Political Strategy," *Leiden Journal of International Law* 22, no. 3 (September 2009): 433.

90. Boaventura de Sousa Santos and Cesar A. Rodriguez-Garavito, "Law, Politics, and the Subaltern in Counter-hegemonic Globalization," in *Law and Globalization from Below*, ed. Boaventura de Sousa Santos and Cesar A. Rodriguez-Garavito (Cambridge: Cambridge University Press, 2005), 15.

91. Mbembe, "Africa Needs Free Movement."

92. Such an articulation of demands and struggles is, for instance, suggested today by the exemplary campaign for "migratory justice" launched by the CNCD 11.11.11 in Belgium. See www.cncd.be.

CHAPTER 4

Dispossessing Citizenship

NANDITA SHARMA

Nationalism uniquely sets both formal as well as ideological limits to political communities in the name of popular sovereignty.[1] Ideas of nationhood tell us that each of us has a unique place in the world that is ours and ours alone. Nationalism carves the world into separate state territories within which some people are seen to belong while others are not. Thus, integral to nationalism is the ideological construction of a group of people categorized as foreigners, others who are juridically and/or existentially outside of ideas of the nation (even, or perhaps especially, if they are present). The immigration and border controls of nation-states work to enclose us in these enclaves and tell us that our lives will be good, safe, and worthwhile only if we can keep ourselves separated from the nation's others. Social formations imagined as nations have been, from the start, imagined as threatened communities, always vulnerable to destruction by various so-called foreign influences.

In his study of nationalist home-making practices, David Morley notes that nationalist discourse "allows us to imagine that we do not have to share our space with anyone else unless they are of exactly our own kind by virtue of consanguinity" or the concept of "blood ties."[2] In this regard, Étienne Balibar has argued that "racism sees itself as an 'integral' nationalism, which only has meaning (and chances of success) if it is based on the integrity of the nation, integrity both towards the outside and on the inside."[3] As intellectuals, politicians, and opinion makers portray the "good society" as unified, whole, and integrated around common national norms, those categorized as one category of migrant or another are said to embody all that is deficient and other to the national citizen. Migrants are made into a fundamental threat to the nation and its citizens. In this sense, nationalism can be said to spatialize and territorialize ideas of "race" that portray human society as made up of inherently different types of people.[4]

Citizenship and Its Others

Nationalism as an ideology first arose in the mid-eighteenth century but existed primarily as a supplement to imperialist ideologies until the rise of mid- to late-nineteenth-century nationalism. During the period of its initial development, nationalism existed within the geopolitical context of a world dominated by several European imperial states. Along with racism, nationalism provided the rationale for privileging those in the empires' metropoles in relation to those who were classified as the natives in the colonies. Feelings of nationhood intensified, especially in the late nineteenth century and the early part of the twentieth when the nationalization of states and the formation of national societies began in earnest and a number of new nation-states appeared. As societies were formed and increasingly began to be imagined—and institutionally organized—as national, the supposedly organic—and racialized—unity of the nation was stressed.

The establishment of regulations and restrictions on immigration was a key moment in the transformation of imperial states and territories into nation-states and national territories. Immigration controls, far from being a natural component of state sovereignty, said to be in place since the 1648 Treaty of Westphalia and its establishment of territorial borders of distinct sovereignty between states in Europe, were, in fact, specific to the national form of state power.[5] It was only when the sovereignty of monarchical or imperial states was nationalized that state sovereignty and societal membership came to be defined by controls on the entry of people into state territory.

As the nation has from the start been highly racialized, gendered, and sexualized, so too have national controls on immigration. Unsurprisingly, then, the articulation of ideas of race and society was institutionalized in the world's first immigration policies, implemented in the Americas in the late nineteenth century. Immigration policies not only demarcated the borders of nation-state territory but also established the boundaries of nationhood. The new technology of immigration control constructed a certain group of people, often negatively racialized, mostly workers, and often part of the global poor, as migrants. In so doing, it legitimized the state as that which represents a nation. In contrast to those constituted as national subjects, who were said to be in their rightful place, those constituted as migrants came to be thought of as out of place, as not belonging, as not having the "right to have rights."[6]

For example, the first federal immigration law in the United States was the 1875 Page Act. Enacted a full hundred years after the signing of the 1776 Declaration of Independence, it expressly barred the entry of three categories of people: "coolies" (used in this case to designate people from China, regardless of whether they came under contracts of indenture), women deemed to be prostitutes, and all those deemed to be criminals. This was followed by the 1882 Chinese Exclusion Act, the first US federal immigration law to expressly prohibit immigration with

explicit recourse to ideas of race. Importantly, both the Page Act and the Chinese Exclusion Act were significant departures from past practice—and their novelty was very much commented on at the time. Prior to their enactment, movement into the United States had been largely unrestricted. Indeed, the movement of millions of workers into the country prior to the end of the nineteenth century was not only unrestricted but actively, and often forcibly, encouraged. One needs to remember only the impressment of persons from Europe, the enslavement of persons from Africa, and the indenturing of persons from Asia to understand the full weight of the novelty of the first US immigration controls.

The Page and Chinese Exclusion Acts were a part of the US effort to nationalize its sovereignty by limiting the American nation to positively racialized persons who would continue to have unimpeded access to state territory and to national citizenship. These acts thus regulated and restricted the in-migration of those people constituted as undesirable and unassimilable. A US national society was constructed at the expense of this new category of migrants.[7] Indeed, one observer of American life, E. A. Kendall, noted in the nineteenth century that "*immigrant* is perhaps the only new word, of which the circumstances of the United States has in any degree demanded the addition to the English language."[8]

Being constituted as a migrant is, of course, far from being a straightforward reflection of having crossed a national border or of lacking national citizenship. Instead, being a migrant is read off of one's racialized body and the racialized meanings of the body politics of nationalism. Migrants are those who are not associated with the particular nation or whose sovereign territories they reside in. People construed as migrants may be noncitizens who have entered the nation-state by crossing a national territorial border *or* citizens who had been minoritized—rendered national minorities—and placed in questionable sociological categories such as second-generation (or third- or fourth- or fifth-) migrant or people with a migration background. For these reasons, migrants have come to stand in for the subordinated—and despised—race.[9]

Migration, then, is the specter that haunts the nationalist fantasy of perfection. The nation, it is fantasized, would be perfect were it not for the supposedly smelly, noisy, lazy, and overly fecund migrants. This is not a coincidence: fantasies of a nation without nonnational others sustain nationalist narratives because they provide the rationale for the inherent problems that exist in any nationalist project. Ultimately, nationalism depends on the idea that the world is rightly organized into discrete, demarcated zones of national belonging, zones in which members of the nation are one unified and homogenous group. This trick of national transcendence tells us identification with the nation is of a higher moral order than identification with others who share our situation but not our nationality. Historically, this has created a society in which rulers—and many of those being ruled—imagine that they share the same interests, now called the national interest. Through the transcendent properties of nationhood,

the state has come to be seen as simply serving and protecting the nation and not as a source of power that institutionalizes domination and subjugation.

As this is never the case—each nation is rife with class exploitation and state and private practices of expropriation, sexism, and racism—blaming migrants for all problems allows the national fantasy to remain uninterrupted.[10] Instead, what is disturbing to national citizenship is an acknowledgment that migrants are a *product* of nation-states' laws prohibiting free movement. Equally disturbing is also the challenge to citizens' claim that they have some inherent right that migrants should not. Nationalism thus depends on our acceptance of a sovereignty story in which identity, territory, and authority are said to perfectly coalesce. These coalesce in nation-state regimes of citizenship that reproduce the myth that it is the nation (with its citizens) that is represented by the state. Nonnationals also exist within this regime of national citizenship. They are the noncitizen others whom the state does not represent. Indeed, within narratives of national sovereignty, those categorized as citizens view it as the nation-state's obligation to act against those who are not members of the nation.

The ultimate cost of maintaining national fantasies is the death of migrants, which, along with border controls, is growing at an unprecedented rate. As safer routes become sealed off across the world, people on the move are being funneled into taking extremely dangerous routes. For example, a total of almost seven thousand people trying to cross into the United States died in the US Southwest between 1998 and 2013. But the true number is likely higher, considering that this number accounts only for those whose bodies were recovered. At this same border are 650 miles of fencing and 1,500 surveillance and communication towers. In Europe, a recent *Der Spiegel* report stated that "a consortium of European journalists found that more than 23,000 people have lost their lives while attempting to reach Europe" since 2000.[11] The International Organization for Migration (IOM) estimates that more than five thousand people on the move drowned in the Mediterranean in 2016 alone.

Territorialization of Subjectivity

What historically reconciled the gulf between the nationalist rhetoric of homogeneity and unity and the *reality* that all nation-states had persons within them who were constituted as foreign/others was the construction of the category of minorities. Minorities were those who either were unable to constitute themselves as a nation or had done so but had been unable to secure a state they imagined as their own. Minorities, thus, were those people who were not a People (at least not in the places they actually lived). Minorities became—and remain to this day—the others of the early twentieth-century Wilsonian idea (and ideal) of the national self-rule of citizens.

Newly nationalized successors to imperial states signed onto the League of Nations' Minority Treaties where they pledged to protect those constituted as minorities. It was these treaties that led Hannah Arendt to famously remark that "the nation had conquered the state," for these treaties were an explicit recognition that nation-states had a communitarian basis.[12] In their day-to-day operation, Minority Treaties were less important for the protections they offered minorities—always quite minimal, since the League was reluctant to act on complaints about their violation—than for the ways they organized the ideological basis for an emergent international order. The Minority Treaties made it evident that nation-states existed for those imagined as part of the "national community." Those whose nation did not correspond with the state in which they lived were disadvantaged in comparison to those who did. For example, it was not considered a violation of "minority rights" for the League (or other signatories to the growing number of Minority Treaties) to implement nation-state policies requiring minorities to "culturally assimilate" to the "national culture," even as such "assimilation" was always already violent.

The new state category of minorities created its own logic, one that acted as a centrifugal force in the emerging international system. As the only way one could stop oneself from being treated as a minority was to secure national sovereignty, more and more social movements turned to nationalism in an effort to end their subjugation. Indeed, throughout the interwar years, nationalism emerged as the main ideological force mobilizing struggles against not only imperial states (e.g., the British or the French) but also other nation-states, thereby consolidating the nation-state as *the* ideal (and very much idealized) political community.

As the nationalization of the state intensified, so did the territorialization of people's subjectivities. Shortly after the end of World War II in 1945, the two main imperial states that had entered it (the British and French) were in the process of being dismantled. Former colonies were being nationalized and new, nominally independent nation-states were being announced. By the 1960s, even the former metropoles of imperial states had completed their own process of nationalization. All states marked the nationalizing of their sovereignty by enacting new immigration regulations and restrictions that overturned centuries of imperial practice based on relatively unrestricted in-migration. It is out of these events that the categories of national citizens and migrants were created, as well as the bifurcation of national citizens and migrants two supposedly distinct and discrete types of people.

In the post–World War II era, there has been an intensification of border controls. The world over—but most especially in the Global North—human mobility into national state territories is strictly regulated and, for most people, highly restricted. There is general consensus within the global system of nation-states on Article 13(2) of the 1948 UN Universal Declaration of Human Rights, stating that "everyone has the right to *leave* any country, including his own, and to re-

turn to his country" (emphasis added). There is no corresponding consensus on the right of persons to *enter* any country, however. Far from it. Instead, within the postcolonial new world order there is universal consensus on the right of nation-states to restrict people's entry.

The national form of state power has thus embedded within it a set of discriminatory practices against nonnationals that are regarded as legal and, for most citizens, perfectly legitimate. As such, ideas of national belonging are proprietorial in character: national citizenship is modeled after private property rights. As private property owners do, national citizens assert the right to exclude nonnationals/noncitizens from the enjoyment of what the state recognizes as theirs. *We* feel that *they* should not have that which we believe is exclusively ours (these could be rights, entitlements, jobs, homes, schools, safety, peace, or a sense of belonging).

Materiality of Migration Controls

Ideas of national communion rely on the disavowal of the global terrain on which the state categories of citizen and migrant exist. However, where one holds citizenship today is highly consequential for one's ability to meets one's subsistence needs. In a world where having a nationality is almost universal, one's national citizenship is a key factor in global income disparity. Rights largely flow from which national citizenship one has as well as based on whether or not one holds the status of national citizen in the place one lives and works. Branko Milanovic and Shlomo Yitzhaki show that citizens of Global North nation-states enjoy an enormous "citizenship premium." For example, a citizen of the United States with "the average income of the *bottom* US decile is better-off than 2/3 of world population."[13]

In addition, the importance of distinctions between national citizens and migrants is revealed by the fact that such state categorizations are not only legal classifications of groups of people but also sets of relations and bundles of rights.[14] While the social, economic, and/or political rights accorded to noncitizens vary among nation-states, no nation-state recognizes those categorized as noncitizens as having rights commensurate with those categorized as citizens. The gulf between citizens and noncitizens is growing as nation-states further restrict the entry of persons with permanent residency status and as states prevent noncitizens from accessing previously available services and entitlements.

In the United States, President Clinton's ideologically titled 1996 Personal Responsibility and Work Opportunity Reconciliation Act disallowed federal welfare benefits to most permanent residents for their first five years of US residency and placed further restrictions on their eligibility after that. Predictably, income and wealth disparities between citizens and noncitizens grew as a result of migrants' loss of the social wage.[15] Not only are noncitizens often paid far less

than citizens for their labor power, they are now increasingly being made more dependent on the capitalist labor market for their only source of survival. The greatest beneficiaries are, unsurprisingly, employers and nation-states. Nationalism, then, is highly beneficial to the world capitalist system.

States have, of course, been a critical part of the production of capitalist competition since the rise of capitalism in England in the sixteenth century. However, national citizenship regimes have further intensified the structural and global competition between workers, capitalists, and states. We live in a world where labor markets have long been global but are now legally regulated as separate national markets. In this regard, it is important to recall Claudia von Braunmuhl's argument that constructing the apparatus by which to territorially delimit labor power is one of the two basic principles of national state practices, the other being the regulation and guarantee of the conditions required to reproduce capitalist social relations (such as the protection of private property rights).[16] Indeed, along with setting the limits of nations, immigration policies shape both the supply of labor and, with differential categorizations for those filtered through them, the profitability of labor within any nationalized labor market. Rights, protections, and entitlements are all organized nationally while capital can either move to where different sources of workers are available or employ workers who have been accorded subordinate national statuses by states.

The subordination of migrants derives, in part, from nation-states' efforts to control workers.[17] In this sense, Ghassan Hage is right to argue that from the perspectives of nation-states and employers, migrants are best wanted as unwanted.[18] As I've argued elsewhere, regulations and restrictions on the entry of people into nation-states enable nation-states to reorganize their nationalized labor markets to include a group of migrants who are made vulnerable to employers' demands by excluding them from the rights of citizenship.[19] We can, thus, never overestimate the significance of immigration controls to labor markets, especially when we consider that labor markets continue to be organized and regulated as nationalized markets. The commodity of labor power is still very much imagined and organized as a nationally regulated good.

At the same time, as Bridget Anderson has well noted, the competition between citizens and migrants can work to further discipline citizen workers as well as migrants. The disciplining of migrants negatively affects citizens whose labor power and access to rights and social services are portrayed as excessive in comparison to those of migrants. Especially for those citizens regarded as "failed citizens" or just "tolerated citizens," migrants become the exemplary and very much the private and public neoliberal model for discipline and for hard work.[20] That discipline and hard work are forcibly imposed on migrants by their being classified by subordinate immigration statuses or by funneling them into the least remunerated parts of the labor market is wholly elided by neoracist tropes that define their hard work as a part of their essential attributes. Along-

side greater competition in nationalized labor markets, resentment and further division between the proletariat are also produced. The related complaints of "migrants taking our jobs" or "citizens are lazy" serve to further fuel the competition between differently categorized persons while naturalizing and even intensifying the nationalist binary of citizens and their migrant others.

Thus, while placating the citizenry, the goal of restrictive immigration policies in the "fortress rich world" is *not* about restricting the entry of people but about restricting the ability of most people to get status and to live with any protections or rights in the spaces they live and work. Moreover, borders exist not just around the state's territory but, in the case of illegalized people, around the labor market, around benefits and services, access to which is illegalized as well. Indeed, these borders can be drawn almost anywhere. As expected, this works to ensure the state's control over migrant labor and the extra profits extracted from them by employers.

Restrictive immigration policies, therefore, can be seen as a way to manage the supply of labor in any particular nationalized labor market but in a concealed, ideological manner. Indeed, immigration controls over labor run counter to the neoliberal paradigm, whereby state regulation of worker's rights and indeed other aspects of ensuring rights is viewed extremely negatively but state regulation of borders remains unproblematic. Thus, state management of migration and migrants is acceptable, but the state regulation of labor markets in regard to enforcing the rights of workers is increasingly deemed unacceptable. Managing borders, therefore, is a way of managing labor markets but in a wholly ideological or concealed manner since within the neoliberal paradigm the state is supposed to have gotten out of the business of regulating the labor market.

Politicizing Nationals and Migrants

With the political maturation of neoliberal reforms to nation-state policies in the 1980s, reforms that were aimed at cheapening the cost of labor and increasing the rate of profit, there was a hardening and narrowing of the category—and ideal—of the national citizen. At a time when immigration controls are not only ubiquitous but also decried by many (most?) as not going far enough, anti-immigration politics increasingly relies on ideas of autochthony: that only those constituted as natives to "national soil" are true national citizens. The rights of autochthones are dependent on an anti-migrant politics that sees human mobility across global space as a form of pollution (and, in some cases, even as colonialism). In such discursive practices, the fact that many negatively racialized persons have in fact obtained de jure national citizenship is seen as destructive.

The post–World War II identification with national citizenship as the main access point to laying legitimate claim to resources and rights within nation-

states began to change in the 1960s as neoliberal reforms began to hold sway. By the 1980s, when neoliberalism gained its political ascendency and the reforms under way for the past two decades dramatically decreased the entitlements that national citizenship brought, especially those within welfare states of one kind or another, the distinctions (and differentials in rights) between citizen and migrant have intensified. Within a neoliberal policy environment, autochthony has been especially attractive for those without access to markets or to existing laws as a means to secure property (especially property in land), rights, livelihoods, social services, or, more ubiquitously, a sense of being in a national home.[21] In this sense, autochthony is particularly appealing to those who are (or who feel that they are) marginalized within present-day nation-states. With this, the battle over resources and over place has increasingly moved from an emphasis on citizenship to an emphasis on nativeness (or, to use a term popularized from the 1980s onward, on indigeneity).

Under the initial post–World War II regime of national citizenship, *some* migrants who had previously been denied citizenship status were able to gain access to it (e.g., those racialized as Asians could naturalize into US citizenship in 1943 after the passing of the Magnuson Act), and some much smaller groups were even able to have themselves included in definitions of national belonging. However, within nationalisms that center nativeness, it is almost impossible for migrants to shift their status and become native. Indeed, claims to autochthony are far more limited—and limiting—than claims to national citizenship. Within autochthonous discourses, representing oneself as part of the original people of a place—and defining one's membership in this group through ideas of blood (or genealogy)—is posited as the only basis for the construction of a political community.[22] Autochthony moves beyond basing citizenship on birth or naturalization to basing it on *descent* and increasingly on the neoracist framing of ethnicity. Olaf Zenker maintains that "substituting 'civic' citizenship by a more restrictive 'ethnic' citizenship is typically the very *raison d'ĕtre* behind the evocation of a rhetoric of autochthony in the first place."[23] This is because the category of native is far more impermeable to claims for inclusion than even the racialized category of national has been in the recent past. In this sense, making claims to national belonging on the basis of autochthony intensifies the possessive character of citizenship.

Autochthonous discourses impel a particular kind of anti-immigration politics. They inspire the "need to safeguard 'ancestral lands' against 'strangers' who 'soil' this patrimony, as well as on the right of first-comers to special protection against later migrants."[24] With the shift from "national" to "native," the figure of the migrant has become even more of an "other" to the national citizen. The diminishment of the value of national citizenship, therefore, has not only affected citizens (who, over the past several decades, have lost a long list of rights and entitlements), but also further devalued—and expanded—the racialized list of people viewed as migrants. As a result, (normative) national citizens have

turned against noncitizen migrants—as is evident in the tremendous rise of anti-migrant legislation and everyday practices—and now natives have also turned against those cocitizens recategorized as migrants. Some states, for example Burma (now called Myanmar) in 1982, have gone so far as to strip the national citizenship of those re-presented as nonnative.[25]

In some autochthonous discourses, the very process of human migration has been so demonized that any and all persons constituted as migrants have been recast as colonizers. For example, in Hawai'i, persons with US citizenship racialized as Asian have been portrayed by some as "settler colonists," active, they say, in the colonization of native Hawaiians.[26] Emphasis has been taken off of the social relations of colonialism and displaced onto migration as the *source* of violent efforts to destroy precolonial societies. In the post–World War II global order of nation-states, where colonization has been delegitimized, conflating migration with colonization works to further delegitimize human mobility. In many recent, highly volatile, and often murderous conflicts, there is a growing use of autochthonous discourses to justify an arguably starker and harder dichotomy between natives and migrants. Within such a politics, the only proper political community is one governed by natives.

Migration's Challenge to National Sovereignty

The autochthonous turn, I believe, suggests that we have stumbled across something generic about the project of the nation form of state power. The broader implication of national borders and nationalized identities lies not in simple exclusions of foreigners but in what Gilles Deleuze and Félix Guattari have called "differential inclusions." Foreigners are included in any given nation-state, but on terms of gross inequalities in relation to citizens. This hierarchy is ingrained in the logics of the national state system. It is not simply an anomaly. In other words, migrants are a necessary and already-existing part of all citizen regimes. Acknowledging this fact should lead to a new way of understanding issues of human migration and a new way of addressing this situation other than to simply say that those who have been categorized as migrants should naturally be subordinated to those categorized as national citizens. We must start with the understanding that immigration law is not only inadequate or contradictory, but also productive of status. The law itself creates nationals and migrants.

Within the conceptual carving out of differentiated zones of belonging lies concealed the interconnected relations and mutual constitutiveness between so-called local and global spaces, between the inside and the outside of nations. Since the nineteenth century and the start of the nationalization of states, sovereignty, and subjectivity, the immigration controls of nation-states, with their legitimization of differential treatment for citizens and their migrant others,

have become central to the operation of global capitalism. Indeed, the idea that there exist two supposedly discrete spaces: a national one in which citizens (especially native citizens) exist and a global or foreign one that contains migrant others, works to materially organize not only discrimination but also capitalist competition. Through the mobilization of nationalist discourses, people come to see themselves as living and working within a national space that is always already in conflict with a negatively racialized foreign space. Within this trope of threatened national homelands, it becomes wholly legitimate that states discriminate against negatively racialized and negatively nationalized Others.

Posing a serious challenge to the hegemony of a system of national citizenship, one fundamentally based in racist practices, requires that we reject the nationalist basis of organizing human societies. Even as nationalist practices have killed many, many millions of persons and seriously disrupted the lives of countless millions more, the ultimate failure to actually seal us off from one another shows us that the "foreign body" cannot and will not be expelled. This is because foreigners are not, in fact, foreign. They are an integral part of our world and our culture. The only justice possible—for both citizens (or natives) and migrants—is for both to cease to exist as political identities.[27] Only by rejecting national citizenship as the basis of our connections to others and rejecting nativism as a more profoundly "natural" division of the world's people, as the basis of claims to the stuff of live, as the basis of our sense of self, can we open up the possibility of reclaiming our planet from capitalists and states and taking it back as our collective source of life.

NOTES

1. Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 1991); Robert Miles, *Racism after "Race Relations"* (London: Routledge, 1993), 61.

2. David Morley, *Home Territories: Media, Mobility and Identity* (London: Routledge, 2000), 217.

3. Étienne Balibar, "The Nation Form: History and Ideology," in *Race, Nation, Class: Ambiguous Identities*, ed. Étienne Balibar and Immanuel Wallerstein (London: Verso, 1991), 59.

4. The idea of race is usually placed within scare quotes to draw people's attention to the fact that it is a socially produced construct. Its acceptance as real is central to ideologies and practices of racism. Thus, it is important that we not reify or naturalize the separations it produces between people. However, for the sake of clarity and easy reading, I do not place it within scare quotes for the remainder of this chapter.

5. Radhika Mongia, "Historicizing State Sovereignty: Inequality and the Form of Equivalence," *Comparative Studies in Society and History* 49, no. 2 (2007): 384–411.

6. Hannah Arendt, *The Origins of Totalitarianism* (New York: Houghton Mifflin Harcourt, 1973).

7. Kitty Calavita, "US Immigration and Policy Responses: The Limits of Legislation," in *Controlling Immigration: A Global Perspective*, ed. Wayne Cornelius, Philip Martin, and James Hollifield (Stanford, Calif.: Stanford University Press, 1994), 55–82.

8. Cited in Vann Woodward, ed., *The Comparative Approach to American History* (New York: Asic Books, 1968), 95.

9. Balibar, "Nation Form."

10. Ghassan Hage, *White Nation: Fantasies of White Supremacy in a Multicultural Society* (New York: Routledge, 2000).

11. Maximilian Popp, "Europe's Deadly Borders: An Inside Look at EU's Shameful Immigration Policy," *Der Speigel*, September 11, 2014.

12. Arendt, *Origins of Totalitarianism*, 274–75.

13. Branko Milanovic and Shlomo Yitzhaki, "Decomposing World Income Distribution: Does the World Have a Middle Class?," *Review of Income and Wealth* 48, no. 2 (2002): 155–78, 50, emphasis added.

14. Bridget Anderson, *Us and Them: The Dangerous Politics of Immigration Control* (Oxford: Oxford University Press, 2013), 2.

15. Frances Fox Piven and Richard Cloward, *The Breaking of the American Social Compact* (New York: New Press, 1998).

16. Claudia von Braunmuhl, "On the Analysis of the Bourgeois Nation State within the World Market Context: An Attempt to Develop a Methodological and Theoretical Approach," in *State and Capital: A Marxist Debate*, ed. John Holloway and Sol Picciotto (London: Edward Arnold, 1978), 176.

17. Miles, *Racism after "Race Relations,"* 166.

18. Hage, *White Nation*, 135.

19. Nandita Sharma, *Home Economics: Nationalism and the Making of "Migrant Workers" in Canada* (Toronto: University of Toronto Press, 2006).

20. Anderson, *Us and Them*, 2–3.

21. Nandita Sharma and Cynthia Wright, "Decolonizing Resistance, Challenging Colonial States," *Social Justice* 35, no. 3 (2008–9): 120–38.

22. Indeed, "autochthon," according to the *Oxford English Dictionary* (*OED*), is derived from the Greek *autos* (self) and *khthon* (earth), literally meaning one (originally in the plural) who has "sprung from the earth," and refers to "an original or indigenous inhabitant of a place."

23. Olaf Zenker, "Autochthony, Ethnicity, Indigeneity and Nationalism: Time-Honouring and State-Oriented Modes of Rooting Individual-Territory-Group Triads in a Globalizing World," *Critique of Anthropology* 31, no. 1 (2001): 63–81, 70–71.

24. Bambi Ceuppens and Peter Geschiere, "Autochthony: Local or Global? New Modes in the Struggle over Citizenship and Belonging in Africa and Europe," *Annual Review of Anthropology* 34 (2005): 385–407, 385–86.

25. Those constituted as "Rohingya" were stripped of their citizenship by Myanmar's 1982 Citizenship Act because the Burmese nation-state claimed that they could not verify ancestry in Myanmar prior to the beginning of British colonial rule in the 1820s. See Natalie Brinham, "The Conveniently Forgotten Human Rights of the Rohingya," *Forced Migration Review* 41 (December 2012).

26. Candace Fujikane and Jonathan Okamura, "Whose Vision? Asian Settler Colonialism in Hawai'i," *Amerasia* 26, no. 2 (2000).

27. Mahmood Mamdani, *Define and Rule: Native as Political Identity* (Cambridge, Mass.: Harvard University Press, 2012).

CHAPTER 5

Prison Abolitionist Perspectives on No Borders

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Late in fall 2014, President Barack Obama announced that he would extend Deferred Action for Childhood Arrivals (DACA) to more people and create a similar program for parents of US citizens and lawful permanent residents, under Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA). The Department of Homeland Security had established DACA two years earlier, using its prosecutorial discretion to authorize eligible individuals to apply to stay in the country temporarily and apply for work authorization. Individuals would need to meet particular criteria, including coming to the United States before the age of sixteen, attending school, and not having a record of certain criminal offenses. As with DACA, people with some criminal offenses were ineligible for relief under DAPA. When Obama announced the extension of DACA and establishment of DAPA, he also directed US Immigration and Customs Enforcement (ICE) to focus the agency's enforcement (and deportation) efforts on "felons, not families. Criminals, not children. Gang members, not a mom who's working hard to provide for her kids."[1]

Republican and Democratic presidents and their attorneys general routinely, and controversially, have used their executive or parole authority to respond to perceived migration crises.[2] Republicans painted Obama's and DHS's actions as forms executive overreach that promoted lawlessness. The state of Texas led twenty-five other states in a lawsuit to block the extension of DACA and implementation of DAPA. In June 2016, the Supreme Court issued a split decision in *US v. Texas*, which continued to halt the implementation of DAPA. The lawyer for the state of Texas acknowledged that the president has authority to issue "forbearance from removal. But what they can't do is grant authorization to be in the country."[3]

This dispute over executive authority hinges on debates over national belonging and categories of wrongdoing, some of which are legislated as "crimes." Commonsense ideas of valuable persons are tied to ideals of family, nation, and work that hierarchically arrange value through racialized, sexualized, classed, and gendered terms. For example, a common defense of Obama's executive action

asked, "Would [the Republicans] instruct enforcement agents to treat a DREAMer, the spouse of a soldier, or the mother of an American citizen as an equal deportation priority to a convicted gang member, a smuggler, or a serious criminal?"[4] The question expresses incredulity about the Republicans' apparently heartless stance. Yet, rather than offering a sharp contrast, the question's rhetorical stance illustrates a broad consensus—among mainline migrant rights groups, Democrats, and Republicans—that deportation and migration policing are legitimate state practices and that inclusion relies on being a member of a socially and economically valued group.

As this debate over DACA and DAPA illustrates, the response to what Juliet Stumpf terms "crimmigration" has tended to be claims of innocence or denial ("I'm a hard worker, not a criminal").[5] Indeed, rather than identifying criminalization as the problem—a legal and ideological process that strips rights through (re)drawing lines of social value—this rhetorical posture aims to collect what I call the "wages of innocence." The appeal to innocence is understandable. Access to livelihoods, learning, and care are real and immediate needs in people's lives that I do not seek to diminish. Yet since at least the mid-1980s, the immigration policy reforms that have opened access for some have come at a high price, namely increased scrutiny, interior and border policing, detention, and deportation that have targeted the same groups of people. In short, sociologist Imogen Tyler writes, "citizenship has been designed to fail specific groups."[6] What else might be done?

This chapter seeks to answer this question by bringing prison abolitionist theory to bear on no borders concerns. As I detail more fully later in the chapter, prison abolition envisions a world that does not rely on policing and incarceration as tools for social control. This liberatory ambition and practical politics is needed more than ever. I began writing this chapter in the midst of the 2016 presidential election season and completed it after the election of Donald J. Trump, who has been a vocal leader of the "birther" movement denying Obama's citizenship, called for Mexico to pay for building a border wall (as if a vast machinery of multilateral fortification and migration policing stretching across the Americas and Caribbean does not already exist), and referred to Mexican migrants as rapists and criminals, among other things.

This is also a moment of extended legitimation crisis over policing, perhaps symbolized most immediately by the Black Lives Matter movement that began during Obama's presidency. Black Lives Matter as a movement challenges the routine policing of black people and neighborhoods in particular (though not exclusively) and the routine impunity for police officers who harm, kill, and violate the rights of black residents. The Movement for Black Lives has issued a far-reaching policy platform for improving the conditions of daily life for the black community (which would also bolster the well-being of other communities of color also targeted by police and working-class white people). In response to

both Black Lives Matter and opposition to heightened xenophobia and nationalism, President Trump and Republican leaders have pushed for new legislation further criminalizing political dissent and harm to police officers. They have also called for sanctions against "sanctuary city" policies that disengage education, social services, and local police activities from federal migration policing. This dynamic political terrain is precisely the moment when questioning the category of the criminal is imperative for advancing no borders as an antiracist project of self-determined mobility and the right to stay put.[7]

I argue that prison abolitionist theory and practice offers the visionary and concrete tools that are necessary for no borders and migrant justice organizing to advance their shared egalitarian political visions, which refuse the power of nation-states to determine membership and rights. I am not the first to make this argument about an abolitionist imperative for migrant justice and no borders organizing.[8] Historian Kelly Lytle Hernández observes, "This tangle of alienated citizens and criminalized immigrants is a deeply historical construct that reaches up from the unfinished abolition struggle of the nineteenth century and across the twentieth-century experience with race and inequity to define today's caste of felons and illegal immigrants."[9] The growing appreciation that prisons and borders do not simply delimit national space, but rather are transnational in scope creates an opportunity to analyze the criminal legal system together with the border-migration regime. I focus on the US prison regime, which Dylan Rodríguez calls a form of "global statecraft, an arrangement and mobilization of violence that is, from its very inception, already unhinged from the delimiting 'domestic' (or 'national') sites to which it is presumptively tethered."[10]

In this chapter, I focus on the US context, where borders and categories of "criminals" and "(im)migrants" together shore up settler colonialism and racial capitalism.[11] I trace the emergence of prison abolition and no borders movements as decolonial and anticapitalist struggles. Next, I use these insights to critique analyses of criminality within critical migration studies. I then situate the figure of the criminal within histories of struggle over citizenship. I conclude with a discussion of areas for shared organizing.

Background and Context for Prison Abolition and No Borders Organizing

Contemporary no borders and abolition (of prisons, policing, punishment, and surveillance) movements emerged in the United States toward the end of the twentieth century to confront specific elements of global capitalist (and [neo] colonial and imperial) restructuring. Neocolonial dispossession—in the forms of deregulation, "free trade" deals, politically induced austerity, and rollbacks of even modest wealth redistribution—has resulted in growing impoverishment, particularly among people of color. It has also resulted in the expansion of state

and state-sanctioned authorities to confine, police, surveil, and disempower the groups made most vulnerable to the harms of political-economic crisis. The targets of policing are racialized and heterogendered, and racial inequities are systematically reproduced throughout the criminal legal and migration systems. The US reliance on criminalization and expulsion as means of governance has resulted in systematic political disenfranchisement and economic dispossession (e.g., through stripping of social welfare entitlements, imposition of fines and fees, and widespread formal and informal barriers to employment that endure long after release from prison).[12]

No borders and carceral abolition movements share similar analyses of how state power, sovereignty, and legitimacy are reconstituted through reproducing citizen/noncitizen and citizen/criminal categories of inclusion and exclusion. Abolitionist and no borders movements each have created new campaigns, affinity groups, organizations, conferences, information, theory, and strategy in the midst of crises of racial capitalism and the nation-state form. Where abolitionist organizing principally has focused on the role of the state in criminalization, social ordering, and social control through racialization and heterogendering, no borders organizing has focused on the role of the nation-state in managing sovereign territory, labor, mobility, and belonging through racialized, classed, gendered, and sexualized registers.

While sketching the tendencies of each of these movements, my objective is not to stamp sharp lines around them. That said, the relative disconnection of these movements from each other and the focus of their respective organizing targets (criminal punishment and local police for abolitionist organizing and federal migration authorities and border militarization for no borders) also tend to map onto the nation-state imaginary of distinct domestic and foreign spaces. This is ironic considering that each movement has documented the disciplinary role of the state, criticized the exclusions and hierarchies produced through citizenship and policing, and debated fundamental political tactics and strategy within and against the nation-state. At the risk of overstatement, deportation has tended to fall outside the purview of prison abolition, and the criminal legal system has tended to fall off of the radar of no borders. Bringing these movements together thus necessitates both transnational and locally situated perspectives on criminalization, policing, militarization, and citizenship.

The contemporary US-based abolitionist movement (sometimes called neo-abolitionist) is rooted politically and intellectually in the long black freedom struggle and in black (feminist) theorizing and organizing against interpersonal and state violence, and for collective self-determination.[13] The movement for abolishing the use of prisons, policing, surveillance, and criminalization as solutions to crises of racial capitalism is distinct from, and indeed rejects, the abolitionist mantle that carceral feminists claim in their appeal to the state to protect vulnerable subjects through the criminalization and punishment of per-

petrators or through establishing so-called gender-responsive prisons.[14] Scholars developing feminist, queer, and trans theories of the carceral state and liberatory change have challenged such carceral terms of protection and humanism by demonstrating how the state itself is a fundamental institution responsible for violence against women, gender-nonconforming, and transgender people.[15]

The founding of Critical Resistance (CR) in 1998 often is cited as a key moment in reestablishing abolition as a movement with a concrete agenda to end policing and imprisonment. Following the Attica uprising of 1971, prison abolition emerged as a widespread political demand, far from being a fringe perspective.[16] Judges, mainstream criminologists, and commissions such as the National Council on Crime and Delinquency and National Advisory Commission on Criminal Justice Standards and Goals had come to regard prisons as obsolete and called for decarceration (release of imprisoned people) and a moratorium on prison construction.[17]

Building on the strategies developed by the 1970s Prison Research Education Action Project, CR has worked to popularize the analytical framing of the prison-industrial complex (PIC), coined by cultural critic Mike Davis in 1995, in its organizing work and political education.[18] Contrary to how the term often has been interpreted by its denizens and detractors, PIC is not a synonym for either private prisons or profit narrowly thought. Nor does the term define labor exploitation within prisons as the force driving prison expansion. Rather, the concept explicitly references the military-industrial complex, articulated by President Dwight D. Eisenhower in 1961 to warn about the dangerous entanglements among institutions of state violence, private firms, and local economies, which shape social and economic life toward violent ends. The PIC concept, similarly, questions how social control, surveillance, and punishment have become the answers to social problems in ways that fundamentally shape patterns of social and economic life. Carceral logics also inform institutions, such as education, welfare, child protective services, and housing, in ways that legitimize punishment and social death for some groups and valorize the social worth of other groups. That is to say, the analysis that the PIC affords is *not* at the scale of private industries performing corrections or detention services, but rather at the scale of racial capitalist-state relations wherein policing and imprisonment are central elements of racialized and heterogendered class relations and social control.

No borders organizing has emerged since the mid-1990s as a praxis that challenges nation-states and the transnational system of global apartheid that has emerged through exclusionary migration policies, the militarization of borderlands, and policing of mobility.[19] As Bridget Anderson, Nandita Sharma, and Cynthia Wright explain, the "rejection of borders and the differences they make among people (as laborers and lovers, as comrades and classmates, etc.) comes from a shift in standpoint from one centered on citizens and 'their' organization

or 'their' state to one that begins from the standpoint of migrants themselves."[20] In North America, the group No One Is Illegal has developed critical analyses of capitalist and neocolonial dispossession driving transnational migration as well as developed a decolonial politics for challenging settler colonialism in the Canadian context.[21] Their organizing speaks to a debate over the relationships among migrant justice, decolonization, and antiracism that draws into question the legitimacy of (settler colonial) nation-states.[22] Within the US context, the "coalitional possibilities" at the nexus of queer and migrant justice organizing have been a vibrant site of theorizing and movement building.[23]

In rejecting the state as a "primary protector of migrants and asylum seekers," no borders politics complements abolitionist criticisms of policing, surveillance, and imprisonment as solutions to economic and social problems.[24] The reality that policing, imprisonment, border militarization, and migration policing entrench the problems they set out to "fix" suggests to abolitionist and no borders praxis that these state practices are not failing, but working as designed to structure social, legal, political, and economic relationships and hierarchies of belonging and citizenship. This assessment, in turn, has resulted in efforts to dismantle carceral and border systems that are inherently oppressive and to construct alternative institutions for preventing violence, healing harms, creating accountability, transforming justice, and building just, life-sustaining economies. As such, the abolition of the PIC would mean the uprooting of racial capitalism and imperialism and represent the fruition of what W. E. B. Du Bois calls "abolition democracy."[25] No borders theorists have developed complementary visions of "alternative formulations in support of people's need to move (or stay put),"[26] including, minimally, new ways of organizing labor, health care, and welfare and, more expansively, working to end militarized borders and policing that lead to migrant deaths, and developing strategies for a global commons and environmental/climate justice.[27]

Theorizing the Figure of the Criminal in Migration Studies

One of the conceits of the nation-state is that it holds a monopoly on "matters of security."[28] Peter Nyers explains that state sovereignty is reproduced in the state's claims "to protect citizens both from each other (through laws and police) and from external aggression of other states (through the military, border policing, etc.)."[29] As such, sovereignty is remade not just through reproducing territorial boundaries, but also through boundaries of belonging, including formal citizenship. Nyers draws on Bonnie Honig's theorization of the role of foreigners in creating national political communities.[30] According to Honig, the foundational premise of liberal sovereignty, whereby subjects consent to membership and rule, is renewed through the acts of foreigners formally joining the polity as

citizens. Such acts of apparent desire to join the nation inform what Honig calls the "xenophilic myth of immigrant America."[31] Yet, as Honig explains, this myth has a flipside. The "iconic good immigrant—the supercitizen—who upholds American liberal democracy is not accidentally or coincidentally partnered with the iconic bad immigrant who threatens to tear it down."[32]

Nyers contends that Honig's theorization is limited because she does not consider what he calls the "abject foreigner (the deportee, the failed asylum applicant, the overstayer, etc.)."[33] This omission means that she overlooks how people without an authorized political identity are engaged in a "taking-politics" that "make visible the violent paradoxes of sovereignty."[34] He and others develop this argument by documenting how political actions and everyday activities of abjected foreigners reshape not only their own lives but also the rights and entitlements for citizens. For example, Nicholas De Genova takes up the question of the categorical limits of citizenship by using the figure of the "deportable alien" to explore the nexus of mobility and work.[35] For De Genova, the "deportable alien" is included within practices of citizenship through exclusion, "a peculiar sociopolitical relation of juridical nonrelationality [that] is the material and practical precondition for her thoroughgoing incorporation [as a worker] within a wider capitalist social formation."[36]

William Walters, similarly, examines citizenship through the lens of deportation and what he calls the "international police of aliens."[37] For Walters, the "Marshallian narrative of social citizenship" as a progressively inclusive and expansive institution "makes sense only if we ignore the treatment of groups like aliens who were often present alongside these social citizens but did not enjoy the same level of social rights."[38] Walters contends that nation-states' expulsion of noncitizens represents a historical and geographical extension of the English Poor Laws, such that today the "world comprises a patchwork of welfare states. Many of them are extremely rudimentary, but the vast majority are organized in terms of norms of residency."[39] Who composes "groups like aliens"? Walters continues his account by drawing on critical criminologists Rusche and Kirchheimer, who argued that the Vagrancy Act of 1597 legalized deportation, which took the form of transportation as a punishment. England institutionalized this punitive form of coercive mobility to its American and Australian colonies, a practice that ceased with the American Revolution and the new nation's deepening reliance on chattel slavery.

For obvious reasons, critical migration studies has tended to theorize how the citizen/noncitizen divide informs political belonging, but criminalizing logics also structure social and political belonging in ways that demand greater scrutiny. For example, De Genova distinguishes contemporary "postcolonial" regulation of migrant labor from colonial labor exploitation "within the militarized borders of colonies, which served to *immobilize* human energies within the confines of vast de facto prison labor camps."[40] I do not dispute the harshness

of conditions flagged by "de facto prison labor camps," but this historical typology is a questionable one from the vantage of the US empire where chattel slavery relied on uprooting people from their homelands and subsequently immobilizing them on colonized lands, and where an international migrant labor market (with varying degrees of freedom) coexisted with formal colonial rule. I suggest that the prison camp analogy mistakes how criminalization is working to regulate conditions of labor for both citizens and noncitizens.

In another example, Jonathan Xavier Inda and Julie Dowling write, "Noncitizens currently being deported [from the United States] as 'criminal aliens' are thus not necessarily what one would call hardened criminals who represent a threat to the public's safety, but more often than not are low-level, nonviolent offenders."[41] While I support their objection to criminalization, their critique stops short. They invoke the antisocial limit figure of the "hardened criminal" in order to reject a too expansive application of carceral logics. Yet they seem to take for granted that policing and criminal sanctions constitute comprehensive and legitimate responses to violence. Violence is notoriously complex, and we know that only some "violent" offenders are subject to retributive sanction even as they typically are not applied to architects of war or institutions implicated in structural violence.

To take a third example, Juliet Stumpf's discussion of "crimmigration" recognizes that "the boundaries of who is an accepted member of society" are being redrawn to exclude "an ever-expanding group of immigrants and *ex-offenders* who are denied badges of membership in society." Yet her singling out of ex-offenders, rather than all "offenders," implicitly invokes the common sense that imprisonment legitimately entails the stripping of citizenship rights.[42] One may counter that Stumpf's reference to an "ever-expanding group" gestures to the broadening sweep of criminalization. Yet we must also query how groups who are framed discursively as "offenders" are made subject to persistent surveillance and sanction. Routine contacts with police—regardless of "offending"—also uphold racial, gender, and class boundaries of social and political membership.[43] My concern is that these examples echo criminal legal reform efforts focusing on the so-called "non, non, nons" (nonviolent, nonserious, nonsexual) offenders.[44] Such criticisms of state overreach both reinforce the racialized history of criminality and fail to challenge the state's claim to discern, isolate, or resolve violent acts through criminal sanction.

Given that sovereignty is also reproduced through the deployment of coercive force and violence on citizens, accounts of American citizenship within migration studies are incomplete without attention to the forging of the figure of the criminal. Indeed, political philosopher Matt Whitt contends, "By criminalizing immigrants, the United States reconstitutes itself through violently coercive acts in an era when globalization threatens the sovereign prerogative to do just that."[45] The state positions itself fundamentally as a protector of the "innocents"

against internal and external threats and as a humanitarian savior for those people whose lives are made vulnerable to harm by virtue of criminalization and border fortification. Yet Whitt underscores that this process "actively creates the populations that it is said to merely separate. This means the prison apparatus constitutes the *entire* political community."[46] This suggests that dismantling the ideological category of criminality and its associated carceral mechanisms will also be necessary for advancing no borders praxis.

Alienage, Citizenship, and the Wages of Innocence

Criminality does not reside in individuals but, like citizenship or refugee status, is a category whose creation is political, contested, and tied up with class rule, the development of racial capitalism, chattel slavery, and its afterlife.[47] As Stumpf writes, "Through incarceration and collateral sanctions, criminal offenders are—literally—alienated."[48] Ruth Wilson Gilmore and Lisa Marie Cacho refer to this process as social death.[49] For Gilmore, social death works as a racialized categorization that "enable[s] (or perhaps even require[s]) state terror to obliterate the enemy."[50] An abolitionist no borders praxis must confront how lines of social value and social death are created so as to not reproduce the state's claims to protect the innocent and vulnerable from incorrigibles. An abolitionist approach to the criminalization of migrants and citizens, following Martha Escobar, "shifts the lens away from the irrecuperability of particular bodies and toward carceral statecrafting projects that organize and regulate the relationship between the state and civil society."[51]

The dominant, though rapidly shifting, ideological terrain of (im)migrant rights in the United States—"we're hard workers; we're not criminals"—rests on attempts to collect what I call wages of innocence. The concept of "wages of innocence" builds on Du Bois's and legal scholar Cheryl Harris's accounts of the co-construction of citizenship and whiteness as forms of property in the United States. I use the term "wages of innocence" to suggest that citizenship as a property value has been built on racialized, gendered, and heteropatriarchal terms of innocence and criminality, which structurally discipline, surveil, capture, confine, and expel racialized, gendered, and sexualized "threats."[52]

In *Black Reconstruction in America*, Du Bois elaborates on the consequences of the failure to reconstitute US civil society following the formal end to slavery. The promise of Reconstruction rested on constructing what Du Bois called an "abolition democracy," by which he meant the process of dismantling systems of enslavement and building up institutions that would afford the meaningful incorporation of formerly enslaved people into the nation as political figures with full rights and responsibilities. This antiracist democratic moment was dashed in part because white workers failed to align themselves with fellow

black workers against the bourgeoisie and planter class. While the material conditions for many white workers remained dire, they began to be able to collect a "public and psychological wage" by aligning across class lines with bosses and landowners. According to Du Bois, the "public" benefits, or social citizenship, afforded to white workers meant that

> they were given public deference and tides of courtesy because they were white. They were admitted freely with all classes of white people to public functions, public parks, and the best schools. The police were drawn from their ranks, and the courts, dependent upon their votes, treated them with such leniency as to encourage lawlessness. Their vote selected public officials, and while this had small effect upon the economic situation, it had great effect upon their personal treatment and the deference shown them. . . . The newspapers specialized on news that flattered the poor whites and almost utterly ignored the Negro except in crime and ridicule.[53]

Harris builds on Du Bois's observation in her influential article, "Whiteness as Property." She explains that "whiteness conferred on its owners aspects of citizenship that were all the more valued because they were denied to others. Indeed, the very fact of citizenship itself was linked to white racial identity."[54] In this way, citizenship as an element of white property conferred psychological and material wages in the form of greater control of the labor market, through state violence and vigilante pogroms with which the state was complicit. Indeed, the public deference that Du Bois described might be understood as a civic, or structural, innocence that accrued to whiteness despite or through their involvement in pogroms and lynching.

Within such a white supremacist form of citizenship, historian David Roediger argues that enslaved black people were positioned not simply outside of the public, but scripted as "anticitizens."[55] Philosopher Adam Hosein notes that the Supreme Court's 1857 *Dred Scott* decision that people of African descent could not be citizens also meant that they "did not qualify for the constitutional protections afforded to U.S. citizens. Thus was slavery made consistent with the Constitution, at least for a time."[56] Yet despite this formal political rightlessness, black people were positioned as having the power to undo the freedoms of newly enfranchised white citizens.

This impossible positionality created not only questions of citizenship for African Americans but also quandaries of mobility within and across national boundaries. Indeed, Saidiya Hartman observes that the "sheer capacity to move, as demonstrated by the mass movement off the plantation, rather than the gains or loss experienced at one's destination, provided the only palpable evidence of freedom."[57] Yet, this mobility was constrained by postbellum Black Codes criminalizing "idleness" and vagrancy laws targeting formerly enslaved people. Emancipation was rendered as a social and material debt to be paid, and repayment was enforced through Black Codes and convict leasing. Police power,

Hartman writes, was "little more than the benevolent articulation of state racism in the name of the public good."[58] The "public good" was one that was constituted through the "process of creating internal enemies against which the comfort and prosperity of the populace could be defended."[59]

Cedric Robinson called this political position for formerly enslaved people that of the "eternal internal alien."[60] As such, the "banishment and abjection" of black people would secure the "wholeness of the social body."[61] Du Bois reminds us that these conditions of state and extrajudicial racial terror both reproduced the wages of whiteness *and* created conditions for black people in the South to ask, "Shall they go North, or fight it out in the South? Shall they segregate themselves even more than they are now . . . ? Shall they leave the country? Are they Americans or foreigners? Shall they stand and sing 'My Country Tis of Thee?'"[62]

Even as the ideological line between (white) (innocent) citizen and black criminal was more firmly entrenched, a multifront struggle was being waged over the bounds of citizenship that should further dispel the xenophilic myth of America. Nationality and migration legislation passed between 1875 and 1924 attempted to uphold white claims to citizenship and free labor by expressly barring Chinese, Japanese, Indian, and other Asian people from citizenship. One week after President Coolidge signed into law the Immigration Act of 1924 (Johnson-Reed Act), which extended racial/nationality bars and enacted quotas on immigration based on existing census numbers, he signed the Indian Citizenship Act (ICA). The ICA "unilaterally made US citizens of all indigenous people living in the United States."[63] According to Kevin Bruyneel, the act "affirmed dual citizenship status as well as ward-citizenship status."[64] There was significant debate among Native nations about what this "anomalous" status meant for their sovereignty. Nations that form the Haudenosaunee Confederacy, whose people and lands had been divided by the establishment of the US-Canada border, vehemently opposed both the ICA and Johnson-Reed Act. The ICA impinged on their sovereignty and the Johnson-Reed Act prohibited migration of "North American Indians coming into the United States from Canada."[65]

Such connections across (post)slavery, settler colonial, and immigration histories are rarely made. Arguably, this is so because the myth of immigrant America, following Honig, enables a story of a democratic republic when its history is one of slavery and settler colonial dispossession. As historian Mae Ngai writes, "The legal racialization of [Asians' and Mexicans'] national origin cast them as permanently foreign and unassimilable to the nation."[66] Thus, "these racial formations produced 'alien citizens'—Asian Americans and Mexican Americans born in the United States with formal US citizenship but who remained alien to the nation."[67] The legal construction of brown illegality was fostered materially by the nascent Border Patrol.[68]

The position of alien citizens that Ngai theorizes parallels Robinson's and Hartman's formulation of internal aliens as constitutive underpinnings of white

citizenship. But the tendency to discuss citizenship as only about drawing the line between domestic and foreign results in the erasure of how the formal political relationship (citizenship) for formerly enslaved people was reconstituted in ways that maintained white domination. The "anomalous" citizenship of Native peoples and fractious relationships with the US government have created conditions of impunity for violence and for Native contact with police resulting in high rates of imprisonment.[69] Ongoing efforts on the part of the US government to establish its sovereignty across Native lands (including also the Tohono O'odham Nation and homeland of the Ndé Lipan Apache) have resulted in what Ndé leader and scholar Margo Tamez calls an "open-air prison" on their lands.[70]

Following Robinson, Fred Moten observes that black people have been positioned as the "impossible domestic" or "outlaw."[71] This relationship positions black people "as before the law but not subject to it because not under its protection. She is, rather, the law's object or, more precisely, the thing or gathering or vessel of and before the law, up ahead of and destructive of it."[72] The socially destructive quality ascribed to the outlaw or criminal figure parallels the destructive quality that Honig describes for the "bad immigrant." Both are binaries that draw racialized relationships of citizenship and heteropatriarchal and classed norms of belonging.[73] Indeed, whereas terms used to describe criminality in US cities at the turn of the past century included both poor white ethnic immigrants and black working-class citizens, Khalil Gibran Muhammad chronicles how the creation of the federal uniform criminal code cleaved these groups and further consolidated the ideological association between criminality and blackness.[74] The naturalization of the settler colonial present results in the relative invisibility of the policing of Native peoples and lands, spaces where policing also extends to Latinx, Asian, and black transnational migrants.

Refusing the Wages of Innocence

There is a contradiction between invoking innocence as a political strategy and fostering radical change. The contradiction is at the heart of tensions between reformist and radical, or abolitionist, arms of movements that seek to change criminal legal and migration policy. Within liberal perspectives of state violence and sovereignty, the state has (inadvertently) harmed innocent people and is not doing its job to protect. In this narrative, the system has become broken and its spectacular displays of violence (or "bad apple" incidents) are exceptional departures from an otherwise just system. In contrast, abolitionist perspectives on policing and imprisonment recognize that the system is rooted in histories of slavery and settler colonial domination. As such, it is working as designed, is systemically unjust, and thus demands more fundamental changes.

Given these sharply contrasting accounts of the state, it is not surprising that there are contradictory imaginations for social change. In the case of police violence, Tamara Nopper and Mariame Kaba question whether the political tactic of drawing attention to spectacular acts of police violence (of someone being killed by fourteen shots, for example) obscures the mundane policing of black neighborhoods. They worry that the rhetoric of "itemizing atrocity" "leaves black people in the position of having to ratchet up the excess to get anyone to care or pay attention."[75] Similarly, Jill Nelson asks, "Do we require innocence, a spotless record and a cheery—or at least not scary—countenance to determine the value of a life? If you are angry, have a criminal record, were formerly incarcerated, smoke marijuana or aren't photogenic, would your murder go without public cries for justice?"[76]

This rhetoric of itemizing atrocity and appealing to a spotless record results in demands for better police training, body cameras, and the like as reforms. Such demands—which appeal to innocence, as apparently only the virtuous among us can claim exemption from arbitrary and capricious state violence—are doomed. Cacho argues that such claims have the opposite effect of ratifying the common sense of criminality as social death.[77] For Gilmore, the tactical move to "try to assert innocence as a key anti-prison political activity is to turn a blind eye to the system and how it works. The way the system works is to move the line of what counts as criminal and to engulf more and more people into the territory of prison eligibility, if you will."[78]

A similar debate is playing out between liberal (im)migrant rights and migrant justice or no borders organizing. Invoking respectability and economic value—"we're hard workers; we're not criminals"—distinguishes the good immigrant not just from the bad immigrant but from the criminal anticitizen. The good immigrant implicitly needs protection from the criminal, and both the bad immigrant and criminal are undeserving of protection and the right to have rights. These tactics also fail to question the state's claims to be a protector. Beth Richie argues that such appeals to innocence are foreclosed for black women, who are discursively positioned as simultaneously invulnerable and criminal.[79] Attempting to collect wages of innocence and virtuous citizenship thereby naturalizes the social relations of who may even be recognized as a victim, as innocent.[80]

This strategy of seeking to earn the wages of innocence has entrenched the problem it sets out to solve. As Hernández writes, "A path to citizenship for undocumented immigrants in an era of mass incarceration may not be as valuable as it seems if pursued without a challenge to the inequities of mass incarceration."[81] This is not to say that immigrant justice organizations are content with accepting trade-offs that are inevitably exclusionary. For example, the New York–based migrant justice organization Families for Freedom characterized Obama's extended DACA announcement as another form of felony disenfranchisement.

They rejected both the good immigrant/bad immigrant *and* the valuable citizen/discardable criminal dichotomies by insisting, "People with felonies, criminal records and gang affiliation are our friends and family."[82]

"No One Is Expendable": Linking No Borders and Abolitionist Praxis

In September 2017, DHS issued a memo rescinding the memo that established the DACA program. What kind of radical imaginations do we need to end migration deterrence, border fortification, detention, and deportation? Do we focus our efforts as organizers and advocates on the "most deserving" or on the "wretched of the earth," as Fanon's political imagination would suggest?[83] Claiming exemption from anti-blackness does not undo anti-black racism, but rather naturalizes criminalization and capitalist terms of citizenship. So, claiming innocence in this context throws some people under the bus, merely shifting the line of who may be subject to what Gilmore calls human sacrifice.[84]

When one recognizes that border and crime policies are interlinked elements of social and territorial control it becomes clearer how prison abolition must be a politics with an explicitly transnational agenda (e.g., to challenge deportation, permanent exclusion from nation-states, and the enduring criminalization, surveillance, and policing that people who have been deported face). Similarly, the transnational and interconnected reality of crime and migration policing suggests that no borders politics must necessarily challenge criminalization as an element of what Joseph Nevins and others term global apartheid.

Groups such as Families for Freedom, 1Love Movement, Black Alliance for Just Immigration (BAJI), and the Immigrant Defense Project have made people who have records of offenses that can lead to deportation a focus of their organizing and advocacy work. (Not incidentally, the director of BAJI, Opal Tometi, is one of the cofounders of the Black Lives Matter movement.) Together as part of the Immigrant Justice Network, they criticize "selective and discriminatory policing, prosecution, sentencing, and deportation of black and brown community members" and call for an "end [to] mass deportation and mass incarceration while addressing the racial, economic, and legal injustices that underlie both. The US government needs to invest in people and not more law enforcement. It should uplift communities, not maintain the laws that tear them apart."[85] By challenging, rather than sidestepping, the state policies that create the conditions for capture and deportation, they question the legitimacy afforded to punishment and banishment as state practices.

Other examples of the growing ties between abolitionist and migrant justice organizing include debates over sanctuary, as expanded on in chapters 1 and 16 of this volume. Sanctuary policies had been developed in the 1980s as part of migrant justice and antiwar solidarity efforts with Central American refugees,

and they bristled Republican officials. Following Trump's inauguration, residents across the country sought to deepen their cities', schools', and other public institutions' commitment to shield noncitizens from federal policing of their migration status.[86] Some mayors and police chiefs took vocal stances in support of (im)migrants, many claiming that the demand to have local police forces function as federal migration agents would interfere with public safety and day-to-day policing.

A critical view has emerged challenging views of sanctuary defined narrowly in relation to federal migration policing. The migrant justice group Mijente published "Expanding Sanctuary: What Makes a City a Sanctuary Now?," which it developed with the Black Lives Matter–identified organization Black Youth Project 100, the Transgender Law Center, and the Chicago Immigration Working Group. The report powerfully argues that "cities must address the criminalization of black people, transgender women, and other people of color as a part of the minimum standard of defining a city as a 'sanctuary' today."[87] Marisa Franco, a lead organizer with #Not1More Deportation, suggests that "sanctuary makes a ring of fire around our people."[88] She explains that this powerful imaginary does not have four walls and necessarily is multifaceted. BYP-100 organizer Janaé Bonsu cites a 2016 report by BAJI that shows that undocumented black migrants face disproportionately high risks of deportation in part due to their more frequent contact with police.[89] Given this, she argues, "Whether it's stop-and-frisk or no-knock raids, both undocumented immigrants and US-born Black folks have a vested stake in redefining what sanctuary really means, and in resisting Trump's 'law-and-order' agenda. . . . As long as the immigration and criminal justice systems are interconnected, creating real sanctuary cities is an issue of linked fate and real practical, principled solidarity."[90] In New York City, contacts with police engaged in broken-windows-style policing at subway stations sweep people into the criminal legal system, a process that also places those without legal status "on [ICE]'s radar."[91] This understanding of the interconnections between these local and federal systems contributed to a campaign called #SwipeItForward in which activists both sought to protest increasing subway fares and to challenge the criminalization of fare violations. The strategy would disrupt the capture into the criminal legal system and pathway to deportation. This campaign is similar to the noncompliance strategies employed in Arizona following the passage of SB 1070. Organizers there worked to create spaces of refusal and refuge, challenging the injustice of policing and creating refuges from the policing of migration status.[92]

When W. E. B. Du Bois called for an abolition democracy, he meant the dismantling of slavery as well as the construction of institutions that would incorporate formerly enslaved people into society on a democratic basis. Angela Y. Davis has built on this to suggest that the abolition of policing and imprisonment also requires building "an array of social institutions" that would solve the problems that policing and imprisonment claim to solve.[93] What do these perspectives mean for questions of citizenship? At the minimum, advancing

different claims of belonging beyond that of citizenship—human rights, migrant rights, worker rights, right to the city, or sanctuary—must necessarily also be engaged with working to end imprisonment as a solution to social and economic problems, to end anti-black racism and upend settler colonial grounds of policing and imprisonment. Abolition within this context means creating the conditions for self-determined lives in the course of dismantling the binaristic valuation and devaluation of human life through categories of guilt and innocence, freedom and unfreedom. It means that no one is disposable.[94]

Questions remain, of course, about the practices of abolitionist no borders politics. One that I have suggested is about how decolonial imperatives can inform abolitionist and no borders organizing. Another concerns the geographic scale or sites of organizing. I suggested at the outset that the nation-state scale has been central, for different reasons, to both the abolitionist and no borders movements. In thinking through citizenship as a racialized and colonial relationship, citizenship remains a troubled category whose violent partiality underscores its value, for some. For Geoffrey Boyce, Sarah Launius, and Adam Aguirre, an abolitionist no borders politics rejects citizenship as a "qualifier of humanity."[95] They turn instead to the political and material composition of community through collective practices of refusal and sanctuary that make everyday life possible. Echoing Marisa Franco's "line of fire," Boyce, Launius, and Aguirre contend that the "insistence on human equality and militant opposition to any structure or condition limiting its realization" is precisely the struggle over the boundaries and grounds of community.[96] Not everybody can collect the wages of innocence. Global apartheid hangs in the balance.

NOTES

1. Barack Obama, "Remarks by the President in Address to the Nation on Immigration" (White House, November 20, 2014).

2. Jenna M. Loyd and Alison Mountz, *Boats, Borders, and Bases: Race, the Cold War, and the Rise of Migration Detention in the United States* (Berkeley: University of California Press, 2018).

3. Adam Liptak and Michael D. Shear, "Obama Immigration Plan Seems to Divide Supreme Court," *New York Times*, April 18, 2016.

4. Greg Sargent, "GOP Deportation Policies, in the Raw," *Washington Post*, January 14, 2015.

5. Juliet P. Stumpf, "The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power," *American University Law Review* 56, no. 2 (2006): 367–419.

6. Imogen Tyler, "Designed to Fail: A Biopolitics of British Citizenship," *Citizenship Studies* 14, no. 1 (2010): 61.

7. Movement for Black Lives, "Platform" (2016), https://policy.m4bl.org/platform/. I prefer to capitalize the term *black* as a political category. The University of Georgia Press does not normally capitalize the term, and I have accepted the press house style for this chapter.

8. A selection of movement theorists and organizers includes Martha Escobar, "No One Is Criminal," in *Abolition Now! Ten Years of Strategy and Struggle against the Prison Industrial Complex*, ed. CR10 Publications Collective (Oakland: AK Press, 2008), 57–69; Yasmin Nair, "How to Make Prisons Disappear: Queer Immigrants, the Shackles of Love, and the Invisibility of the Prison Industrial Complex," in *Captive Genders: Trans Embodiment and the Prison Industrial Complex*, ed. Eric A. Stanley and Nat Smith (Oakland: AK Press, 2011), 123–39; Jenna M. Loyd, "'Live, Love, and Work': An Interview with Luis Fernandez," in *Beyond Walls and Cages: Prisons, Borders, and Global Crisis*, ed. Jenna M. Loyd, Matt Mitchelson, and Andrew Burridge (Athens: University of Georgia Press, 2012), 228–38; Black Alliance for Just Immigration, "The Real Crime: Mass Criminalization of Our Communities" (2014), http://blackalliance.org/therealcrime/; Carlos Garcia, "#Not-1More Means Not One More," *Puente Arizona*, November 22, 2014; Mizue Aizeki, "No Matter the Target, Immigration Raids Are Inhumane," *Huffington Post*, January 14, 2016.

9. Kelly Lytle Hernández, "Amnesty or Abolition?," *Boom: A Journal of Californi*a 1, no. 4 (2011): 65.

10. Dylan Rodríguez, "'I would Wish Death on You . . .': Race, Gender, and Immigration in the Globality of the U.S. Prison Regime," *S&F Online* 6, no. 3 (2008).

11. Jenna M. Loyd, "Carceral Citizenship in an Age of Global Apartheid," *Occasion* 8 (2015): 1–15.

12. Meda Chesney-Lind and Marc Mauer, eds., *Invisible Punishment: The Collateral Consequences of Mass Imprisonment* (New York: New Press, 2011).

13. Select references include Angela Y. Davis, *Are Prisons Obsolete*? (New York: Seven Stories Press, 2003); Julia Sudbury, ed., *Global Lockdown: Race, Gender, and the Prison-Industrial Complex* (New York: Routledge, 2005); Dylan Rodríguez, *Forced Passages: Imprisoned Radical Intellectuals and the U.S. Prison Regime* (Minneapolis: University of Minnesota Press), 2006; Joy James, *Warfare in the American Homeland: Policing and Prison in a Penal Democracy* (Durham, N.C.: Duke University Press, 2007); Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (Berkeley: University of California Press, 2007); Chris Dixon, *Another Politics: Talking across Today's Transformative Movements* (Berkeley: University of California Press, 2014).

14. Nandita Sharma, "Anti-trafficking Rhetoric and the Making of a Global Apartheid," *NWSA Journal* 17, no. 3 (2005): 88–111; Elizabeth Bernstein, "Militarized Humanitarianism Meets Carceral Feminism: The Politics of Sex, Rights, and Freedom in Contemporary Antitrafficking Campaigns," *Signs* 36, no. 1 (2010): 45–71.

15. Select references include Stanley and Smith, *Captive Genders*; and Beth Richie, *Arrested Justice: Black Women, Violence, and America's Prison Nation* (New York: New York University Press, 2012).

16. Liz Samuels, "Improvising on Reality: The Roots of Prison Abolition," in *The Hidden 1970s: Histories of Radicalism*, ed. Dan Berger (New Brunswick, N.J.: Rutgers University Press, 2010), 21–38.

17. Prison Research Education Action Project, *Instead of Prisons: A Handbook for Abolitionists* (1976; Oakland: Critical Resistance, 2006).

18. Mike Davis, "A Prison-Industrial Complex: Hell Factories in the Field," *Nation*, February 20, 1995, 229–34.

19. Bridget Anderson, Nandita Sharma, and Cynthia Wright, "'We Are All Foreigners': No Borders as a Practical Political Project," in *Citizenship, Migrant Activism and the Politics of Movement*, ed. Peter Nyers and Kim Rygiel (New York: Routledge, 2012), 73–91; Bridget Anderson, Nandita Sharma, and Cynthia Wright, "Why No Borders?," *Refuge* 26, no. 2 (2009): 5–18; Harsha Walia, *Undoing Border Imperialism* (Oakland: AK Press, 2013); Andrew Burridge, "'No Borders' as a Critical Politics of Mobility and Migration," *ACME: An International E-Journal for Critical Geographies* 13, no. 3 (2014): 463–70.

20. Anderson, Sharma, and Wright, "Why No Borders?," 11.

21. Walia, *Undoing Border Imperialism*.

22. Bonita Lawrence and Enakshi Dua, "Decolonizing Antiracism," *Social Justice* 32, no. 4 (2005): 120–43; Nandita Sharma and Cynthia Wright, "Decolonizing Resistance: Challenging Colonial States," *Social Justice* 35, no. 3 (2008–9): 120–38.

23. Karma R. Chávez, *Queer Migration Politics: Activist Rhetoric and Coalitional Possibilities* (Urbana: University of Illinois Press, 2013); Nair, "How to Make Prisons Disappear"; Gabriel Arkles and Pooja Gehi, "Dreaming, Telling, Occupying, and Destroying: Interest Convergence between Militarism and Social Justice in the DREAM Act and the Repeal of 'Don't Ask, Don't Tell,'" *S&F Online* 13, no. 2 (2016).

24. Burridge, "'No Borders' as a Critical Politics," 466.

25. W. E. B. Du Bois, *Black Reconstruction in America, 1860–1880* (1935; New York: Free Press, 1998); George Lipsitz, "Abolition Democracy and Global Justice," *Comparative American Studies* 2, no. 3 (2004): 271–86; Angela Y. Davis, *Abolition Democracy: Beyond Empire, Prisons, and Torture* (New York: Seven Stories Press), 2005.

26. Burridge, "'No Borders' as a Critical Politics," 468.

27. Joseph Nevins, "Thinking Out of Bounds: A Critical Analysis of Academic and Human Rights Writings on Migrant Deaths in the U.S.-Mexico Border Region," *Migraciones Internacionales* 2 (2003): 171–90; Anderson, Sharma, and Wright, "Why No Borders?"; Reece Jones, *Violent Borders: Refugees and the Right to Move* (London: Verso, 2016).

28. Peter Nyers, "Abject Cosmopolitanism: The Politics of Protection in the Anti-deportation Movement," in *The Deportation Regime: Sovereignty, Space, and the Freedom of Movement*, ed. Nicholas De Genova and Nathalie Peutz (Durham, N.C.: Duke University Press, 2010), 415.

29. Nyers, "Abject Cosmopolitanism," 415.

30. Bonnie Honig, *Democracy and the Foreigner* (Princeton, N.J.: Princeton University Press, 2001).

31. Nyers, "Abject Cosmopolitanism," 423.

32. Honig, *Democracy and the Foreigner*, 97 in Nyers, "Abject Cosmopolitanism," 423.

33. Nyers, "Abject Cosmopolitanism," 426.

34. Nyers, "Abject Cosmopolitanism," 427.

35. Nicholas De Genova, "The Deportation Regime: Sovereignty, Space, and the Freedom of Movement," in De Genova and Peutz, *Deportation Regime*, 33–65.

36. De Genova, "Deportation Regime," 47.

37. William Walters, "Deportation, Expulsion, and the International Police of Aliens," in De Genova and Peutz, *Deportation Regime*, 69–100.

38. Walters, "Deportation, Expulsion," 91.

39. Walters, "Deportation, Expulsion," 91.

40. De Genova, "Deportation Regime," 54, emphasis in the original.

41. Jonathan Xavier Inda and Julie A. Dowling, "Governing Migrant Illegality," in *Governing Immigration through Crime*, ed. Julie A. Dowling and Jonathan Xavier Inda (Stanford, Calif.: Stanford Social Sciences, 2013), 15.

42. Stumpf, "Crimmigration Crisis," 377–78, emphasis added.

43. Katherine Beckett and Naomi Murakawa, "Mapping the Shadow Carceral State: Toward an Institutionally Capacious Approach to Punishment," *Theoretical Criminology* 16, no. 2 (2012): 221–44.

44. Marie Gottschalk, *Caught: The Prison State and Lockdown of American Politics* (Princeton, N.J.: Princeton University Press, 2016).

45. Matt S. Whitt, "Sovereignty, Community, and the Incarceration of Immigrants," in *Death and Other Penalties: Philosophy in a Time of Mass Incarceration*, ed. Geoffrey Adelsburg, Lisa Guenther, and Scott Zeman (New York: Fordham University Press, 2015), 176.

46. Whitt, "Sovereignty, Community," 184.

47. Peter Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century*, 2nd ed. (1991; London: Verso, 2006); Dylan Rodríguez, "The Terms of Engagement: Warfare, White Locality, and Abolition," *Critical Sociology* 36, no. 1 (2009): 151–73.

48. Stumpf, "Crimmigration Crisis," 399.

49. Gilmore, *Golden Gulag*; Lisa Marie Cacho, *Social Death: Racialized Rightlessness and the Criminalization of the Unprotected* (New York: New York University Press, 2012).

50. Ruth Wilson Gilmore, "Fatal Couplings of Power and Difference: Notes on Racism and Geography," *Professional Geographer* 54, no. 1 (2002): 19.

51. Martha D. Escobar, *Captivity beyond Prisons: Criminalization Experiences of Latina (Im)migrants* (Austin: University of Texas Press, 2016), 4.

52. Also see Erica Meiners, *For the Children? Protecting Innocence in a Carceral State* (Minneapolis: University of Minnesota Press, 2016).

53. Du Bois, *Black Reconstruction*, 700.

54. Cheryl I. Harris, "Whiteness as Property," *Harvard Law Review* 106, no. 3 (1993): 1744.

55. David R. Roediger, *The Wages of Whiteness: Race and the Making of the American Working Class* (London: Verso, 1991), 57.

56. Adam Hosein, "Do Outsiders Have Legal Rights?," *Boston Review*, March 15, 2017.

57. Saidiya V. Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America* (New York: Oxford University Press, 1997, 159).

58. Hartman, *Scenes of Subjection*, 199.

59. Hartman, *Scenes of Subjection*, 199.

60. Cedric J. Robinson, *Black Marxism: The Making of the Black Radical Tradition* (1983; Chapel Hill: University of North Carolina Press, 2000); Fred Moten, "Uplift and Criminality," in *Next to the Color Line: Gender, Sexuality, and W. E. B. Du Bois*, ed. Susan Gillman and Alys Eve Weinbaum (Minneapolis: University of Minnesota Press, 2006), 317–49.

61. Hartman, *Scenes of Subjection*, 199.

62. Du Bois, *Black Reconstruction*, 703.

63. Kevin Bruyneel, *The Third Space of Sovereignty: The Postcolonial Politics of US-Indigenous Relations* (Minneapolis: University of Minnesota Press, 2007), 97.

64. Bruyneel, *Third Space*, 101.

65. Bruyneel, *Third Space*, 114.

66. Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton, N.J.: Princeton University Press, 2003), 8.

67. Ngai, *Impossible Subjects*, 8.

68. Hernández, *Migra! A History of the U.S. Border Patrol* (Berkeley: University of California Press, 2010).

69. Stormy Ogden, "The Prison-Industrial Complex in Indigenous California," in Sudbury, *Global Lockdown*, 57–65; Robert Nichols, "The Colonialism of Incarceration," *Radical Philosophy Review* 17, no. 2 (2014): 435–55.

70. Margo Tamez, "The Texas-Mexico Border Wall and Ndé Memory: Confronting Genocide and State Criminality, Beyond the Guise of 'Impunity,'" in Loyd et al., *Beyond Walls and Cages*, 62.

71. Moten, "Uplift and Criminality."

72. Moten, "Uplift and Criminality," 340–41.

73. Mathew Coleman, "US Immigration Law and Its Geographies of Social Control: Lessons from Homosexual Exclusion during the Cold War," *Environment and Planning D: Society and Space* 26 (2008): 1096–1114; Eithne Luibhéid, *Entry Denied: Controlling Sexuality at the Border* (Minneapolis: University of Minnesota Press, 2015); Chávez, *Queer Migration Politics.*

74. Khalil Gibran Muhammad, *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America* (Cambridge, Mass.: Harvard University Press, 2011).

75. Tamara K. Nopper and Mariame Kaba, "Itemizing Atrocity," *Jacobin*, August 15, 2014.

76. Jill Nelson, "The Trick Bag of the Perfect Victim," in *Killing Trayvons: An Anthology of American Violence*, ed. Kevin Alexander Gray, JoAnn Wypijewski, and Jeffrey St. Clair (New York: Counterpunch, 2014), 137.

77. Cacho, *Social Death.*

78. Jenna M. Loyd, "Race, Capitalist Crisis, and Abolitionist Organizing: An Interview with Ruth Wilson Gilmore," in Loyd et al., *Beyond Walls and Cages*, 43.

79. Richie, *Arrested Justice*, 130.

80. Cacho, *Social Death*; Meiners, *For the Children?*; Richie, *Arrested Justice*.

81. Hernández, "Amnesty or Abolition?," 66.

82. Families for Freedom, "Executive Action and the Latest Felony Disenfranchisement" (August 31, 2014), http://familiesforfreedom.org/news/executive-action-and-latest-felony-disenfranchisement.

83. David P. Stein, personal communication with author, 2014.

84. Gilmore, "Fatal Couplings."

85. Immigrant Defense Project, "Fix '96: End the Mass Criminalization of Immigrants" (April 28, 2016), https://www.immigrantdefenseproject.org/fix-96-end-mass-criminalization-immigrants/.

86. A. Naomi Paik, "Abolitionist Futures and the US Sanctuary Movement," *Race & Class* 59, no. 2 (2017): 3–25.

87. Mijente, "Expanding Sanctuary: What Makes a City a Sanctuary Now?" (January 31, 2017), https://mijente.net/2017/01/27/sanctuary-report/.

88. Marisa Franco, "A Radical Expansion of Sanctuary: Steps in Defiance of Trump's Executive Order," *Truth-Out*, January 25, 2017.

89. Black Alliance for Just Immigration, "The State of Black Immigrants" (2016), www.stateofblackimmigrants.com.

90. Janaé Bonsu, "Black People Need Sanctuary, Too," *Essence*, March 10, 2017.

91. Emma Whitford, "NYers Are Sharing Subway Swipes Today to Protest Broken Windows Policing," *Gothamist*, March 20, 2017.

92. Geoffrey Boyce, Sarah Launius, and Adam Aguirre, "Drawing the Line: Spatial Strategies of Community and Resistance in Post-SB1070 Arizona," *ACME: An International Journal of Critical Geographies* (2017), https://www.acme-journal.org/index.php/acme/article/view/1328.

93. Angela Y. Davis, *The Meaning of Freedom: And Other Difficult Dialogues* (San Francisco: City Lights Books, 2012), 114.

94. Reina Gossett and Dean Spade, "No One Is Disposable: Everyday Practices of Prison Abolition" (Barnard Center for Research on Women, February 7, 2014); Escobar, *Captivity beyond Prisons*.

95. Boyce, Launius, and Aguirre, "Drawing the Line," 11.

96. Boyce, Launius, and Aguirre, "Drawing the Line," 22.

CHAPTER 6

Habeas Corpus and the New Abolitionism

JACQUELINE STEVENS

Ever since G. W. F. Hegel focused theoretical attention on the membership rules of political societies and suggested they required a principle of birth and rejected the social contract theorists' fictional if not strategic consensualism, scholars have debated the legitimacy of birth as the paradigmatic rule for membership and penalties for presence in a sovereign territory without this or permission from those who have it. Disputants about these rules tend to find themselves in one of three camps: The first follows the Hegelian view arguing that membership should be based on birth, and at least seem given or natural, from the Latin root *nasci*, meaning birth.[1] Opposing this view in a second camp are individualist or anti-intergenerational arguments that individuals should not receive, and governments not provide, political or economic privileges based solely on birth.[2] In a moment of libertarian clarity, the *Wall Street Journal* in 1984 published an editorial advocating amending the US Constitution to add five words: "There shall be open borders."[3]

Finally, a third, mainstream, so-called liberal,[4] position is that clear membership rules, including but not limited to those based on birth, must be in place to ensure the integrity of the democratic nation-state and that such communities should provide generously to foreigners, first by providing access to refugees and second by providing a path some may navigate to citizenship or at least residency.[5] As in *States without Nations*, I use the phrase "so-called liberal" because a political community established through the phenomenology of birth and not consent is not liberal. When birth paradigmatically defines membership, nativist impulses follow. An example of this position is crystallized in a statement by New York City Queens borough councilwoman Ann Pfoser Darby in March 2017: "I've been around immigrants my whole life—I was on the front lines of helping immigrants—but I have to draw the line between those who are legal and those who are not."[6] Scholars writing from this consensus perspective largely avoid discussion of three problems the birthright default poses, leaving aside those of fairness in distributing prizes from the "birthright lottery."[7]

First, the default to birth and not express consent for initiating membership, as explained by John Locke, removes the basis for insisting on government accountability to "the people." Tacit consent, including residence or simply using roads and bridges, obligates obedience to a sovereign, but "makes not a Man a member of that Society. Nothing can make any Man so, but his actual entering into it by positive Engagement and Express Promise and Compact."[8] When a king lacks a community that has provided the monarchy express consent, he lacks political authority. If the king nonetheless asserts sovereignty, say, as Charles II or James I, then he rules as a despot and thus the society is in the state of nature.[9]

Second, the default of birth and not express consent for membership means the creation of intergenerational attachments that assuage anxieties about mortality along the lines described, and endorsed, by Hegel, but that also lead to the episodic virulent nativism and nationalism associated with the taxonomies of Schmittian existential friends and enemies, as well as exclusion and removal, that defy rational discourse much less solutions.[10]

The third problem, and the focus of this essay, is the failure of those who endorse birthright membership, and who flinch from open borders, to engage with the ugly side of enforcement mechanisms required by the exclusions they implicitly recognize, if not defend. Precisely because Seyla Benhabib's work emblematizes commitments held by those who disdain strong endorsements of the nation favored by scholars such as David Miller and Greg Jusdanis, I focus on the political significance of her failure to endorse open borders and, reciprocally, the abolition of deportation.[11] Benhabib helpfully draws on Kant to highlight two political questions raised by sovereign borders. The first concerns the rights of hospitality: what are the human rights of visitors? The second address the rights of membership: "While the prerogative of states to stipulate some criteria of incorporation cannot be rejected, we have to ask: which are those incorporation practices that would be impermissible from a moral standpoint and which are those practices that are morally indifferent—that is to say, neutral from the moral point of view?"[12] Benhabib argues for a *porous* and not *open* border, and for allowing current governments to control membership: "I have pleaded for first-admittance rights for refugees and asylum seekers but have accepted the right of democracies to regulate the transition from first admission to full membership."[13] Her claims are about the moral or human rights that political institutions ought to recognize, but Benhabib has nothing to say to Queens councilwoman Darby, who, unpersuaded, would like to deport undocumented migrants and actually would defer to a majority of similarly positioned citizens who favor birthright as the paradigmatic rule of membership. The difference between Benhabib's position and that of Hegel is that Benhabib only allows for birthright citizenship, while Hegel requires this. In the language of Benhabib, Darby has a right as a member of the US democratic majority

to require birthright citizenship and to refuse to recognize other membership criteria.

The problem with the third position is that the questions about the heuristics for defining membership are political, not moral, and demand a critical inquiry into the conventions on which they are uniformly established, that is, by birth, either to certain parents or in a particular territory, as opposed to abstract conjectures independent of the persistent commitments to fantasies of diachronic belonging over synchronic imaginations, identifications, and commitments.[14] That is, whether membership is based on birthright or other criteria that produce the populations able to distinguish "us" and "them" and to produce the benign or harmful border and membership policies responsive to these comes from political and not moral decisions, as do all principles and judgments that implicate power, a point in keeping with a Nietzschean skepticism that "morality" ever obtains the universal perspective its claims imply. Presumably Benhabib would flinch from allowing a majority to decide on whom to bestow the status "slave" based on birthright; and yet no such "moral" line is drawn for deportations based on birthright citizenship or its approximations, including the tautology of "legal residents." Discouraging the deportation of legal residents is analogous to disfavoring the enslavement of "free blacks." The policies endorsed by the latter would help many blacks, but would not abolish slavery. Indeed, Benhabib explicitly states that she does not want open borders. If not, then she is responsible for those who enter without permission and become de facto long-term residents who lack rights and who thus may be deported. It is thus worth noting this mainstream camp is using their moral intuitions to recapitulate public attitudes. For decades, well over two-thirds of the US public, including 59 percent of Republicans in 2016, have supported a path to legalization for undocumented residents who meet certain criteria.[15] At the same time, 63 percent of Republicans favor building a wall so that entrance will be controlled by a sovereign authority. By failing to question a society's prerogative to rely on birthright membership as the paradigmatic membership rule for constituting the group that will regulate future membership, Benhabib and others disregard how the status distinctions on which they rely for their analyses are every bit as flawed as investigations into the possibilities for morally acceptable versions of patriarchy or slavery, whose conventions also rely on the authority of those creating a status to unilaterally and unaccountably define the conditions of those occupying these subject positions.

The Hegelian or nativist stance, on the one hand, and the libertarian position, on the other, both offer a logical consistency absent in the position held by so-called liberals, which seems best characterized as a confused and banal pragmatism.[16] The muddled consensus of the so-called liberals appears to be embraced for reasons of the theorists' own sentimental attachments to the nation-state and its intergenerational communities as well as the lack of will to attack such

irrational sentiments when they are so widely held by others. The disavowal of the libertarian position often conveys a fear that any radical change to such a scheme would appear impractical and utopian.

The irony is that in the name of ad hoc moral reasoning, so-called liberals actually lack any principled argument to defeat those of anti-immigrant activists such as Councilwoman Darby. Benhabib's position has principles that might persuade some citizens not to endorse Darby's harsh responses in all cases. But if borders are legitimately enforceable by sovereign governments, then nativists are right to challenge those on the left who, like Benhabib, prioritize some residents over others and are silent when those excluded cut the line and either entered when they would never have legal authority for this or in front of those who were going through the legal channels for their permission to enter. In light of the tremendous distance between the prevailing policies and the libertarian and anti-intergenerational rejection of birthright citizenship, this essay sketches out parallels with the tensions in the early nineteenth-century antislavery and abolitionist communities and provides some suggestions as to how this present moment may nudge the large group of so-called liberals committed to marginal improvements in the current toxic immigration and deportation policies to commit to the principled abolition of birthright citizenship and to further demand citizenship based on residence in the context of a world with open borders, along the lines of state residence acquired in the federated United States of America.[17]

The analysis here extends an argument begun elsewhere about the historical, legal, and political similarities between slavery and nativist exclusions to advance a specific claim about the political and legal similarities between the response to the 1850 Fugitive Act and the response to the post-1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). In the 1830s to 1840s, slave owners in the South were livid about the efficacy of the Underground Railroad.[18] There had been a law that since 1793 provided a legal mechanism for the return of escaped slaves, but its enforcement in the North had become the exception.[19] In an effort to discourage southern states from seceding, Congress in 1850 amended the 1793 Fugitive Act to allow privately hired slave catchers or US marshals to arrest, confine, and transport escaped slaves with no judicial oversight.[20]

The 1850 law incensed abolitionists, including civil rights attorneys and journalists who highlighted the new law's infringements on due process rights. The legal-political story of how the abolitionists responded to the 1850 law offers some important lessons for US communities responding to increased enforcement of IIRIRA in 1996. As a matter of policy, immigration law enforcement, like the Fugitive Slave Act, has been the prerogative of the federal government. That is, the federal government had clear policies requiring any individual who was not born in the United States to seek permission before entering, residing, or

working in its sovereign territory and for enforcing this with deportation.[21] The enforcement of these policies ebbed and flowed.[22] During the Clinton administration, Congress passed three laws sharply increasing grounds for deportation and the infrastructure for enforcing these, as well as limiting the discretion of the immigration officers to allow individuals to remain and the ability to appeal administrative findings in the federal courts (1994 Crime Act, IIRIRA of 1996, and the Antiterrorism and Effective Death Penalty Act of 1996). As a result, deportations increased from fifty-five thousand in 1995 to nearly half a million in 2012.[23] At the same time, a number of cities and states proclaimed themselves a "sanctuary" from federal deportation law and offered at least a show of political resistance.[24] Does the reaction against the heightened enforcement of fugitive slave laws in the 1850s, including the Civil War and the post–Civil War amendments to the US Constitution responsive to this, offer lessons for the political and legal struggles unfolding under the Trump administration?

The question is motivated by apparent parallels between the increased organization of local resistance to the enforcement of slavery in the North, culminating in the election of Abraham Lincoln, and the increase in local resistance to federal immigration and deportation policy. The slave owners were aggrieved the Fugitive Slave Act was not being enforced. Likewise, contemporary nativists who made up the "white backlash" mobilized to more aggressively enforce the 1996 law threatened by business elites and the Obama administration.[25] Both time frames held a national referendum on these respective differences about law enforcement. In 1860, the abolitionists prevailed and Lincoln was elected. In 2016, the antinativists lost. This essay suggests that just as the increased enforcement of the existing federal fugitive slave law in the 1850s pushed those who disfavored slavery and defended escaped slaves into a more radical position of active resistance, including arresting US marshals and private agents capturing fugitive slaves in the northern states, the 1996 law and its increased proper as well as unlawful implementation during the Trump administration may also push people into seeing the inherent tension between the rule of law and deportation law in practice, which is largely irregular and illegal. Politically, the law also increased the political mobilization to abolish slavery altogether. A comparison of these laws, judicial rulings, and political reactions to the 1850 law with those in the wake of the 1996 IIRIRA and now Trump's new enforcement efforts may highlight the costs and benefits of deference to birthright citizenship and help crystallize for those on the fence about free movement, but appalled by deportation practices, the urgency of supporting free movement and abolishing birthright citizenship.

To explore the parallels, the essay begins by discussing some of the jurisprudence around the mistreatment of slaves in the 1830s and 1840s. The next section establishes parallels between the efforts by local and state governments in the 1850s to not only resist but actually arrest federal agents enforcing the

Fugitive Act and the resistance efforts by state attorneys general and mayors today. Finally, expanding on these parallels, the last section draws on lessons from the 1850s to suggest ways that states and local law enforcement officers, including local prosecutors, might charge and arrest federal agents for violating laws against kidnapping and false imprisonment.

1820s to 1840s: The Rights of Slaves

Slaves under US federal and state law, like undocumented residents, occupied a world of legal paradoxes. The law gave life-and-death power over slaves to their owners. Insofar as individuals had property rights to their slaves, the government seemingly could no more intercede to prevent the annihilation of slaves as it could to prevent the destruction of one's chattel. At the same time, prosecutors did on occasion prosecute slave owners for abuse. In *State v. Hale* (1823), a white man appealed his conviction for "inhuman battery and assault of a slave": "The person assaulted is a slave, who is not protected by the criminal law of the State; but that, as the property of an individual, the owner, may be redressed by a civil action."[26] The majority of the North Carolina Supreme Court rejected this assertion: "Mitigated as slavery is by the humanity of our laws, the refinement of manners, and by public opinion, which revolts at every instance of cruelty toward them, it would be an anomaly in the system of police which affects them, if the offence stated in the verdict were not indictable." That said, the judges wanted it known that their finding of unlawful abuse was cognizant of abuse that the law required they tolerate: "At the same time it is undeniable that such offence, must be considered with a view to the actual condition of society, and the difference between a white man and a slave, securing the first from injury and insult, and the other from needless violence and outrage." Violence toward slaves may be allowed that would never be tolerated in relations among free citizens.

The majority rationalized the punishment of the white perpetrator by analogizing the protection of slaves to the common law's protection of animals against cruelty. This decision was among a series that produced the well-known *Mann* case a few years later, finding that slavery as a civil institution protected from criminal prosecution a man who had been convicted of shooting a rented slave, and noted that such legal protection was a symptom of the institution's depravity:

> That there may be particular instances of cruelty and deliberate barbarity, where, in conscience the law might properly interfere, is most probable. The difficulty is to determine, where a Court may properly begin. . . . The slave, to remain a slave, must be made sensible, that there is no appeal from his master; that his power is in no instance, usurped; but is conferred by the laws of man at least, if not by the law of

> God. The danger would be great indeed, if the tribunals of justice should be called on to graduate the punishment appropriate to every temper, and every dereliction of menial duty. No man can anticipate the many and aggravated provocations of the master, which the slave would be constantly stimulated by his own passions, or the instigation of others to give; or the consequent wrath of the master, prompting him to bloody vengeance, upon the turbulent traitor—a vengeance generally practised with impunity by reason of its privacy. The Court therefore disclaims the power of changing the relation, in which these parts of our people stand to each other.[27]

Judge Ruffin's argument remained within the paradigm of slavery and stated its logical corollaries, that is, allowing murder. But this is not to say he was insensitive to the larger context.

Indeed Ruffin alluded to pragmatic constraints on slavery's abolition, along the lines of those today who might be concerned about the impracticality of legalizing free movement, and who thus countenance the deportation regime now in place until the numbers of people from poor countries have substantially decreased. "The same causes are operating, and will continue to operate with increased action, until the disparity in numbers between the whites and blacks, shall have rendered the latter in no degree dangerous to the former, when the policy now existing may be further relaxed." Just as contemporary jurists might voice despair over the individual consequences of their decisions for immigrants unprotected or harmed by US law, but who would feel the dearth of institutional authority to press for different outcomes, Judge Ruffin stuck to his understanding of the rule of law, while stressing the educational implications of its outcome: "The result, greatly to be desired, may be much more rationally expected from the events above alluded to, and now in progress, than from any rash expositions of abstract truths, by a Judiciary tainted with a false and fanatical philanthropy, seeking to redress an acknowledged evil, by means still more wicked and appalling than even that evil" (*Mann* at 263). Ruffin voiced a hope that slavery might be abolished, but placed more faith in the course of a history unfolding enlightened by his insights, but not his orders.

In another North Carolina case, *State v. Negro Will, Slave James S. Battle* (1835), a jury failed to convict Will of the murder of Richard Baxter.[28] Out of pique, Baxter had shot a twelve-inch hole in Will's back and was chasing him with murderous intent when Will managed to confront Baxter and shoot him instead. The opinion explained Baxter had no legal grounds for shooting Will. Will's status as a slave deprived him of a claim of self-defense, but the judge ruled nonetheless that Baxter's death was manslaughter and not a homicide. Note that in this rendition the barbarian is the white slave owner, Baxter: "The Courts of the country should foster the enlightened benevolence of the age, and interpret the powers which one class of the people claim over another, in conformity, not with the spirit which tolerates the barbarian who is guilty of savage cruelty, but

with that which heaps upon him the frowns and execrations of the community." Nonetheless, the court affirms slavery's legality and distinguishes the rights of an apprentice against physical abuse from the absence of such rights for a legal slave, which explains why the court convicted Will of manslaughter and did not release him on a claim of self-defense.

The Rule of Law on the Battlefield of Habeas Corpus

The compromises in slave-owning states over criminal indictments in the context of punishing slaves gave way to a much more radical response to the efforts to enforce slavery in the North, especially through the use of habeas corpus, whose mobilization dramatized legal showdowns between state and local authorities, from the Jacksonian era until the election of Abraham Lincoln. In *Prigg v. Pennsylvania* (1842) the Supreme Court upheld the constitutionality of the 1793 Fugitive Slave Act, including broad prerogatives for private agents, but it still allowed state governments to prosecute slave owners or their agents for kidnapping and to issue habeas orders on behalf of captured individuals who insisted they were not fugitive slaves.[29] Slave owners could seize people with no due process, but if evidence of error could be procured, those capturing the slaves could be criminally charged with kidnapping. Moreover, the decision imposed no positive obligation on states to assist in the return of slaves, and several northern states repealed laws to assist the return of escaped slaves.[30]

Closer consideration of the fight between pro- and antislavery forces over the line between the civil action of seizing fugitives and the criminal prosecution of kidnapping is suggestive of how local communities today might prosecute errant federal immigration law enforcement agents, especially those who hold people with no probable cause or who detain and deport US citizens.[31] Justin Wert notes, "National party coalitions . . . weighed in on habeas, arguing that the use of habeas to frustrate the recovery of fugitive slaves violated federal law and numerous constitutional provisions, and more generally risked the dissolution of the Union."[32] The 1833 Habeas Act was to protect federal tax collectors from arrest by the states. However, it was in fact mobilized "by slaveholders to recover their fugitive slaves . . . to remove from state to federal courts cases in which federal marshals were arrested by state authorities for enforcing the fugitive slave law provisions of the Compromise of 1850."[33] This was in response to the fact that states were using their own, parallel, state habeas powers and courts "to thwart federal fugitive slave legislation and protect their free black populations from kidnapping."[34]

The case that has the most relevance for contemporary political struggles and especially state-federal disputes over undocumented residents and deportations is *Ableman v. Booth* (1859). The case came about after a slave named

Joshua Glover escaped in 1850 from the control of slave owner Benammi (in some documents spelled "Benjamin") Garland, who came from Missouri to Wisconsin to reclaim his property.[35] In 1852, Garland located Glover working in Racine. Garland procured a warrant from the federal marshal for Glover's arrest. The marshal and Garland then went to Glover's cabin, seized him, and brought him to a Milwaukee jail.

The capture and jailing of local resident Glover under the Fugitive Slave Act upset the local, abolitionist newspaper editor Sherman Booth, who publicized Glover's captivity as a kidnapping and enlisted local civil rights attorneys in filing a habeas claim in the county court to demand specific evidence be produced and a process followed by which Glover might be released to Garland's custody. This is the same practice that had not been followed for the many free blacks effectively kidnapped on the word of a white slave catcher alone. The Milwaukee attorneys prevailed and the County Court of Milwaukee issued the writ of habeas corpus. Booth organized a commission to investigate the circumstances of the capture and the use of the local jail for holding Glover, with a focus on charging the US marshal with kidnapping. Meanwhile, a mob assembled and Glover was freed and fled to Canada.

Booth was held responsible for Glover's escape and arrested by US marshal Ableman and charged with violating the Fugitive Slave Act. A few weeks later, the Wisconsin Supreme Court declared the Fugitive Act's absence of due process protections unconstitutional and ordered Booth's release. The fifty-nine-page decision reviewed a number of statutory and constitutional defects in Booth's arrest. First, "the said act of congress under which said complaint was made, punishes the aiding, etc., in the escape of 'persons held to service or labor under the laws,' etc., and not aiding the escape of 'property,' for which reason said warrant is defective in substance and form."[36] Second, the judge points out that the "warrant, by virtue of which the petitioner [Booth] was held, was not issued by a federal judge or court, but by a commissioner of the United States."[37] The judge further points out that because the penalty is confinement, it is a "penal statute, and must be construed strictly. It is in restraint of freedom, and therefore every presumption arising under it must be in favor of liberty."[38] Third, and most importantly, the state judge asserts authority to find unconstitutional on the basis of the Wisconsin state constitution an act imposed by the federal government: "[It] is equally his duty [of the state officer] to interpose a resistance, to the extent of his power, to every assumption of power on the part of the general government, which is not expressly granted or necessarily implied in the federal constitution."[39] We clearly see state rights arguments invoked by the northern states in this time frame on behalf of abolishing slavery: "Increase of influence and patronage on the part of the federal government naturally leads to consolidation, consolidation to despotism and ultimate anarchy, dissolution and all its attendant evils."[40]

Having established his jurisdiction over the matter at hand, Judge Smith makes a substantive point that is extremely relevant to the enforcement of the country's deportation laws: the lack of a trial by a jury to establish the identity and status of the person in the custody of the slave agent, either the US marshal or a private contractor, violates the country's due process clause: "An essential requisite is due process to bring the party into court. It is in accordance with the first principles of natural law."[41] But the Fugitive Act had no protections and no process, simply the affirmation of the statements by the alleged agent about the condition and identity of the person named as the fugitive from labor.

Judge Smith also notes the political context informing the passage of the 1850 Fugitive Act that undergirds his rejection of it. Several states had passed their own laws to facilitate the capture of escaped slaves. The fact that they later rescinded them was evidence that states had the prerogative to determine the custody procedures of those in their borders.[42]

Judge Smith writes: "Can that be said to be by due process of law which is without process altogether? Here the status or condition of the person is instantly changed in his absence, without process, without notice, without opportunity, to meet or examine the witnesses against him, or rebut their testimony. A record is made, which is conclusive against him, 'in any state or territory in which he may be found.'"[43] The capture was legally a civil matter—it was in service of executing a civil contract—and thus could not trigger the Sixth Amendment right to a trial by a jury, which is reserved for criminal accusations. On May 27, 1854, Judge Smith found in the Fifth Amendment's right to due process a right to a jury trial to review the claim that the person being captured was indeed an escaped slave.[44] Absent this due process, Smith found the 1850 act unconstitutional and granted the release of the editor Sherman Booth, who was held under it. On June 9, 1854, the federal marshal Stephen Ableman appealed the decision to the full Wisconsin Supreme Court, and on July 19 the court affirmed the findings of Judge Smith and imposed court costs on the federal marshal.[45]

At that point, Ableman sought an indictment of Booth in federal court, and on January 4, 1855, a grand jury for the federal district court in Wisconsin indicted Booth.[46] A jury was impaneled and found him guilty on January 13. On January 23, Booth was sentenced to a month in prison and a thousand-dollar fine. On January 27, Booth challenged the sentence as unconstitutional and the district court judge issued two habeas orders to bring Booth to court, one to Ableman and another to the Milwaukee sheriff whose jail was holding Booth. On January 30, the marshal told the district court he did not have custody of Booth and the sheriff produced Booth before the state court. On February 5, 1855, the state court held that Booth's imprisonment was not legal and that he "was by that judgment, forever discharged from that imprisonment and restraint, and he was accordingly set at liberty."[47] On April 21, the US attorney general brought a writ of error to the attention of the chief justice of the US Supreme Court and

demanded that it find the Wisconsin state court lacked jurisdiction. On "the first Monday of December, 1855" the chief justice of the US Supreme Court issued the writ of error. Four years later, in its 1859 decision, the US Supreme Court noted that the Wisconsin State Supreme Court disregarded its order and "had directed the clerk to make no return to the writ of error, and to enter no order upon the journals or records of the court concerning the same."[48] The US Supreme Court, in a unanimous decision authored by Chief Justice Taney, found that the federal district court and not the state court had jurisdiction and that the Fugitive Act was constitutional, and ordered the reversal of the Wisconsin State Supreme Court decisions and its assertion of habeas authority in these cases.[49]

The matter did not end there. The Wisconsin State Supreme Court, in an act of judicial nullification, disregarded the US Supreme Court, thus inciting the outrage of the southern states, including South Carolina, which on hearing of the decision reissued a threat of its secession. This decision was but one of a number of flash points that culminated in both the election of Abraham Lincoln and the outbreak of the Civil War.

Relevance for Deportation Law and Politics

The echoes of the struggles in the mid-nineteenth century between state and federal authorities are present to some extent in judicial orders granting temporary restraining orders and injunctive relief against the Department of Homeland Security's ban on immigrants from Muslim countries. These claims were filed by state attorneys general of California, Washington, and Hawai'i, and endorsed by amicus briefs from those of other states as well, including a notable overlap with the states that resisted the Fugitive Act.[50] However, the courts granting this relief were federal, not state, courts, and the main lessons from Sherman Booth's experience bear further elucidation as to new forms of resistance that may unfold in keeping with the legal analyses in the Fugitive Act cases.

First, the concern about the prerogatives to execute an order without judicial review stated in a language of due process by Judge Smith should resonate among those disturbed by the brutality occasioned in the implementation of deportation laws. Earlier cases have stated that because deportation is a civil and criminal action, individuals in deportation proceedings do not have the Sixth Amendment right to a trial by jury, a right to a court-appointed attorney if they cannot afford one, or a right to avoid adverse inferences if they fail to answer questions during an immigration hearing, and they are held in facilities that have no regulations.[51] Smith recognized this as well for Joshua Glover and other so-called fugitives from labor, but still found in the Fifth Amendment a requirement for some due process, much more than is presently provided for those accused of violating US immigration laws. Smith in fact is brilliant and prescient

for our own context when he asks, "What would be thought by the people of this country, should congress pass a law to carry into effect that clause of the fourth article in regard to citizenship and declare pains and penalties against any state functionary who should fail to comply?"[52] Smith is pointing out the application to "persons" escaping forced labor (US Constitution, Article IV) could not be applied to "citizens" because the absence of due process would mean a number of people not evading labor contracts would be taken into custody as though they were, as was the memoirist Solomon Northrup, who in 1841 was kidnapped and forced into slavery for twelve years.[53] However, just as the lack of due process protections meant hundreds of free-born blacks in northern states were treated as Northrup, tens of thousands of US citizens in recent years have been detained and even deported.[54] Indeed, deportation regulations,[55] by defining the US citizen in Immigration and Customs Enforcement (ICE) custody as "an alien . . . claiming U.S. citizenship," have not just crossed but entirely destroyed the line on which those in ICE custody might rely for their legal rights.[56]

Smith's reliance on a close reading of the laws and insistence on adhering to the separation of powers is also relevant for contemporary legal and political arguments to abolish deportation and speaks to the broader importance of laws for political causes opposing injustice. Although one might construe Smith as an especially clever jurist, and thus someone who might be able to find good arguments in any corpus of legal writings, there is a reason for those who oppose injustice to follow Smith's approach and pay special attention to the plain text of statutes. The laws of the United States seem to reflect some constitutional reluctance, so to speak, when it comes to putting especially egregious doctrines into writing. Not only does the US Constitution omit the word "slavery," but the oft-called Fugitive Slave Act is actually titled the Fugitive Act, and suggests a similar aversion to admit its purpose. Deportation laws and regulations are similarly vague or incoherent, and thus admit many possibilities for preventing their implementation as well.[57] For this reason, in recent years a large number of civil rights challenges to removal orders have procured constitutional victories on behalf of those in deportation proceedings and even criminal convictions of local police for civil rights violations in the enforcement of immigration laws.[58]

As the exegesis above shows, in a number of places Smith is able to parse the law so that the enforcement measures before him can be construed as inconsistent with it. For instance, he points out the Fugitive Act refers to "persons" in forced labor, in contrast with the slave owner's warrant for his "property." And Smith draws on historical documents from the Constitutional Convention indicating that those drafting the document rejected the inclusion of language that would require states to enforce this section. Likewise, Smith points out that, in keeping with the act, the warrant is issued by a "commission" and not a judicial officer, which thereby offends due process. Similarly, deportation orders are issued by the agencies descendant from a "commission" on immigration, now by

ICE agents and sometimes reviewed by the Department of Justice's Executive Office of Immigration Review, another government office that used to be in the same commission. The purpose of the Constitution's separation of powers as well as habeas corpus is to ensure that a single officer cannot deprive an individual of liberty and the opportunity to prove her innocence or, in the cases of a free person or citizen, her legal identity and status under fugitive laws and deportation laws, respectively. Indeed "most southern states increasingly determined that jury trials, not habeas proceedings, were the most appropriate mechanisms for decisions involving fundamental rights of property."[59] If a jury trial is required to make findings about potentially escaped slaves, then it seems fair to wonder why this would not be demanded for due process in those defending themselves against being removed from their residence and even deprived of their US citizenship.

Finally, Smith's insistence on the legal authority of states independent of the federal government has implications for those in state and local jurisdictions who find these laws or their enforcement either unconstitutional or against state or other federal statutes. Not only can these state and local jurisdictions file motions for relief against their enforcement, but they may in the future use their authority to arrest federal agents who, acting under color of law, are so egregious in their violations that their actions overcome their qualified immunities and render them vulnerable to criminal charges of kidnapping and false imprisonment.

At present, sanctuary cities are simply refusing to honor ICE detainers for those released from local jails, as Peter Mancina discusses further in chapter 16.[60] But the precedents referenced above suggest a much broader scope of state authority. Just as the Fugitive Acts of 1793 and 1850 had so few due process requirements that they incentivized false arrests, the deportation laws are so poorly written and administered with so little oversight that the vast majority of cases reveal a number of violations, ranging from the failure to abide by the statutes themselves to egregious violations and outright abuse and even torture. For the most part these abuses have received either no affirmative legal attention or attention only in civil proceedings, including the recent case under Colorado law brought against the GEO Group in Aurora and heard in federal court, providing class certification to those in GEO's custody over the past decade and forced to work for no pay or for a dollar per day.[61] However, many of the abuses are criminal in nature, including forced labor, and, as the slavery-era precedents cited above suggest, could be remedied by state or local prosecutors bringing criminal charges against federal agents. At present there have been federal charges against local law enforcement, such as the prosecution by the DOJ of Sheriff Joe Arpaio, but local authorities striving to uphold the rule of law could at any point respond to the burgeoning outrage against deportations and file criminal charges against ICE agents and the private prison firms and guards they use. Many of the places where these violations occur are in jurisdictions with Democratic governors or mayors. Because detention under immigration laws is civil and not criminal,

there is no similar legal latitude for treating those in custody in any way that is punitive. The prohibition against penal protocols for people in custody under immigration law is largely ignored. But just as prosecutors used the law to protect slaves from cruelty, they might also use the laws to protect those in ICE custody from assault. Nothing prevents California governor Jerry Brown from responding to complaints about abuse by GEO's private prison guards in Adelanto by using everything from state laws that rescind private security firm or guard authorization if a licensee "committed assault, battery, or kidnapping, or used force or violence on any person, without proper justification" to arresting the warden and assistant warden on criminal charges of violating state criminal laws prohibiting this.[62] In fact, insofar as some states allow private citizens to assume the role of the state attorney general and file criminal indictments, courts in New Jersey, following the precedents that afforded them habeas authority in the 1850s, for instance, could hear criminal complaints brought by private citizens against CCA in Elizabeth, which is notorious for its abuse of those it holds. Instead of filing grievances for verbal and physical abuse or unlawful arrest, private citizens could bring criminal charges to the attention of local judges and, using the federal Freedom of Information Act and, with the consent of the individuals harmed, the Privacy Act to bring criminal charges against the perpetrators.[63] In fact, just as a New Jersey citizen prompted a judge to consider a criminal indictment against Governor Chris Christie, such measures could be pursued even against the New Jersey county jails that break the law and abuse those in wings of county jails rented out to ICE.[64]

The movement to abolish slavery made use of the courts for legal, analytical, and physical support of the Underground Railroad. In these precedents, the movement to abolish birthright citizenship and deportation has not only useful tools at its disposal but also an institutional framework for further mobilizing the intuitions of those such as Benhabib, who, like those facing the long history of slavery, have a problem visualizing the demise of oppressive institutions whose longevity often becomes interpreted as inevitability and necessity. For most of the history of the world, slavery, along with patriarchy, seemed so inherent to social order that to question its persistence would be akin to questioning the necessity of gravity. Although laws have scripted practices in one time frame that later seem hideous and even preposterous, there is, as Martin Luther King Jr. proclaimed, an arc to history that bends to justice, and the public conversations that legal reasoning in this country demands suggest that over the long term these writings in motion, available to all, clarify the law's weaknesses and empower those attentive to its injustice.[65]

NOTES

1. G. F. W. Hegel, *The Philosophy of Right*, trans. T. M. Knox (1821; Oxford: Oxford University Press, 1967); Gregory Jusdanis, *The Necessary Nation* (Princeton, N.J.:

Princeton University Press, 2001); David Miller, *On Nationality* (Oxford: Oxford University Press, 1995).

2. Joseph Carens, *The Ethics of Immigration* (Oxford: Oxford University Press, 2013); Ayelet Shachar, *The Birthright Lottery: Citizenship and Global Inequality* (Cambridge, Mass.: Harvard University Press, 2009); Hillel Steiner, "Libertarianism and the Transnational Migration of People," in *Free Movement: Ethical Issues in the Transnational Migration of People and of Money*, ed. Barry Brian and Robert E. Godin (University Park: Pennsylvania State University Press, 1992), 87–94; Jacqueline Stevens, *States without Nations: Citizenship for Mortals* (New York: Columbia University Press, 2009).

3. Editorial Board, "In Praise of Huddled Masses," *Wall Street Journal*, July 3, 1984.

4. For an elaboration on the difference between "so-called liberal" and "liberal" heuristics of membership, see Stevens, *States without Nations*, especially chap. 1, "The Persistence and Harms of Birthright Citizenship in So-Called Liberal Theory and Countries."

5. Seyla Benhabib, *The Rights of Others: Aliens, Residents, and Citizens* (Cambridge: Cambridge University Press, 2004); Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983); John Rawls, *The Law of Peoples* (Cambridge, Mass.: Harvard University Press, 1999); Peter Schuck and Rogers Smith, *Citizens without Consent: Illegal Aliens in the American Polity* (New Haven, Conn.: Yale University Press, 1985).

6. Corey Kilgannon, "Bike Lanes for Immigrants? A Queens Official's View Draws Fire," *New York Times*, March 31, 2017.

7. Shachar, *Birthright Lottery*.

8. John Locke, *Two Treatises of Government* (1690; Cambridge: Cambridge University Press, 1988), 2:122.

9. Jacqueline Stevens, "The Reasonableness of John Locke's Majority: Property Rights, Consent, and Resistance in the Second Treatise," *Political Theory* 24 (1996): 423–63, esp. 438–39.

10. Carl Schmitt, *The Concept of the Political* (Chicago: University of Chicago Press, 2008).

11. Miller, *On Nationality*. For a discussion of similar tensions in the work of other so-called liberals, including Rawls and Walzer, see Stevens, *States without Nations*, esp. 4–9 and 32–35. Carens, *Ethics of Immigration*, suggests birthright is a starting point for membership and allows for open borders for residence. However, a political community established through the phenomenology of birth and not consent is not liberal. When birth paradigmatically defines membership, nativist impulses follow; these may be opposed through rational discourse, but such interventions will not be effective.

12. Benhabib, *Rights of Others*, 43.

13. Benhabib, *Rights of Others*, 220.

14. Jacqueline Stevens, *Reproducing the State* (Princeton, N.J.: Princeton University Press, 1999).

15. Bradley Jones, "Americans' Views of Immigrants Marked by Widening Partisan, Generational Divides" (Pew Research Center, April 15, 2016).

16. I say a "banal pragmatism" because it is advanced in a language of liberalism and deontological fairness that is in effect simply smuggling in a rationale for the status quo and not a defense of a principled pragmatism.

17. Benhabib comes close this when she states that "the ideal of territorial autochthony must be abandoned" (*Rights of Others*, 216), but it is unclear why her moral magic wand,

which has vanquished the practice of denying refuge to asylum seekers and requiring a path to citizenship for residents, can eliminate birthright citizenship only as an "ideal" and not a practice of democracies, before which the wand falls limp.

18. Stevens, *States without Nations*.

19. "The law of 1793 was in fact but little, if any more than organizing the state authorities for the accomplishment of the constitutional duties devolved upon them. . . . It was practically nothing more than the states themselves carrying out the constitutional compact." *In Re: Booth*, 3 Wisconsin 1, 49 (1854).

20. Lysander Spooner, *A Defence for Fugitive Slaves: Against the Acts of Congress of February 12, 1793 and September 18, 1850* (Boston: Bela Marsh, 1850).

21. Daniel Kanstroom, *Deportation Nation: Outsiders in American History* (Cambridge, Mass.: Harvard University Press, 2007).

22. Joseph Nevins, *Operation Gatekeeper and Beyond: The War on "Illegals" and the Remaking of the U.S.-Mexico Boundary* (New York: Routledge, 2010).

23. John Simanski and Lesley Sapp, "Immigration Enforcement Actions: 2012" (annual report, Department of Homeland Security, 2013).

24. Corrie Bilke, "Divided We Stand, United We Fall," *Indiana Law Review* 42 (2009): 165–94.

25. Marisa Abrajano and Zoltan Hajnal, *White Backlash: Immigration, Race, and American Politics* (Princeton, N.J.: Princeton University Press, 2016).

26. *State v. Hale*, 9 N.C. 523 (1823). These cases seem to have been brought to the attention of prosecutors by owners who had rented out their slaves to other white southerners.

27. *State v. John Mann*, 13 N.C. 263 (1830).

28. *State v. Negro Will, Slave James S. Battle*, 18 N.C. (1 Dev. & Bat.) 121 (1835).

29. *Prigg v. Pennsylvania*, 41 U.S. 539 (1842).

30. Justin Wert, *Habeas Corpus in America: The Politics of Individual Rights* (Lawrence: University Press of Kansas, 2011), 57.

31. Dallin Oaks, "Habeas Corpus in the States, 1776–1865," *University of Chicago Law Review* 32 (1965): 243–88; Stevens, *States without Nations*.

32. Wert, *Habeas Corpus in America*, 28.

33. Wert, *Habeas Corpus in America*, 46.

34. Wert, *Habeas Corpus in America*, 46.

35. The narrative here relies on Wert, *In Re: Booth*, 3 Wis. 1 (1854), and *Ableman v. Booth*, 62 U.S. 506 (1859).

36. *In Re: Booth*, 9.

37. *In Re: Booth*, 11.

38. *In Re: Booth*, 27.

39. *In Re: Booth*, 31.

40. *In Re: Booth*, 34.

41. *In Re: Booth*, 59.

42. *In Re: Booth*, 62.

43. *In Re: Booth*, 59, quoting from the 1850 Fugitive Act.

44. For an insightful constitutional and political theoretical argument on why those in deportation proceedings should have a right to a jury trial, see Daniel Morales, "It's Time for an Immigration Jury," *Northwestern University Law Review* 108 (2013): 36–53.

45. *Ableman v. Booth*, 62 U.S. 506 (1859).

46. This narrative is drawn from the opening pages of *Booth*, 509.

47. *Booth*, 511.

48. *Booth*, 512, quoting from the affidavit of the federal district attorney charged with executing the writ.

49. *Booth*, 526.

50. Eric Schneiderman, "Coalition of 18 Attorneys General File Amicus Brief Supporting Washington State's Lawsuit Against President Trump's Executive Order" (press release, New York Attorney General's Office, February 17, 2017).

51. Morales, "It's Time for an Immigration Jury"; Daniel Kanstroom, "Deportation, Social Control, and Punishment: Some Thoughts about Why Hard Laws Make Bad Cases," *Harvard Law Review* 113 (1995): 1889–1935; Mark Dow, *American Gulag* (Berkeley: University of California Press, 2005); Daniel Kanstroom, *Aftermath: Deportation Law and the New American Diaspora* (Oxford: Oxford University Press, 2012).

52. *In Re: Booth*, 48–49.

53. Solomon Northrup, *Twelve Years a Slave* (New York: Darby & Miller, 1855).

54. Jacqueline Stevens, "U.S. Government Detaining and Deporting U.S. Citizens as Aliens," *Virginia Journal of Social Policy and Law* 18 (2011): 606–720.

55. See 8 C.F.R. § 235.3(b)(5).

56. Benjamin Lawrance and Jacqueline Stevens, *Citizenship in Question: Evidentiary Birthright and Statelessness* (Durham, N.C.: Duke University Press, 2017).

57. Kanstroom, "Deportation, Social Control, and Punishment"; Nancy Morawetz, "Citizenship and the Courts," *University of Chicago Legal Forum* 200 (2007): 447–70; Stevens, "U.S. Government Detaining"; Jacqueline Stevens, "One Dollar per Day: The Slaving Wages of Immigration Jail, 1943 to Present," *Georgetown Immigration Law Journal* 32 (2015): 391–500.

58. Dave Altimari, "East Haven Officers Convicted of Civil Rights Violations," *Hartford Courant*, October 21, 2013.

59. Wert, *Habeas Corpus in America*, 52.

60. At the same time, state and local governments asserting "sanctuary" or other immigrant-friendly policies are all cooperating with ICE and turning over the names of those in custody under criminal law. See Lawrance and Stevens, *Citizenship in Question*.

61. *Alejandro Menocal et al. v. GEO Group, Inc.*, case no. 1:14-cv-02887, US District Court, Colorado, http://deportationresearchclinic.org/DRC-INS-ICE-FacilityContracts-Reports.html.

62. California Penal Code, Chapter 11.5, Private Security Services (7580–7588.8).

63. American Civil Liberties Union (ACLU), "ACLU of New Jersey Provides UN Rapporteur with Report on Immigration Detention That Outlines Concerns of Abuse" (press release, May 15, 2015); American Friends Service Committee, "How For-Profit Prison Corporations Shape Detention & Deportation Policies" (press release, December 7, 2015).

64. Abott Koloff, "Groups Say Hudson County Immigration Detention Site not Giving Adequate Medical Care," *Record*, May 11, 2016; Brian Thompson, "Judge Allows Official Misconduct Complaint Against Christie to Go Forward," *NBC New York*, October 16, 2016.

65. For more on the new possibilities enabled by technology for using litigation to avoid injustice, see Jacqueline Stevens, "Forensic Intelligence and the Deportation Research Clinic: Toward a New Paradigm," *Perspectives on Politics* 13 (2015): 722–38.

PART 2

The Problem with Borders

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CHAPTER 7

Migration as Reparations

JOSEPH NEVINS

In early 2014, US government officials and mainstream media sources began reporting a "surge" of unauthorized migrants, many of them unaccompanied minors, from the countries of Central America's "northern triangle" (El Salvador, Guatemala, and Honduras) coming across the US-Mexico boundary. In this context, border and immigration restriction forces—in Congress, in the US federal bureaucracy, and in civil society—intensified their efforts to grow the apparatus of migrant exclusion.

The Obama administration responded to the "crisis" in various ways, largely by agreeing with the advocates of increased restriction in terms of how they framed the problem, the underlying assumptions, and the solutions that flowed from them. In July 2014, for example, the White House requested $3.7 billion, funding largely focused on strengthening policing efforts in relation to the US-Mexico divide. As the *New York Times* reported, "The president said he needed the money to set up new detention facilities, conduct more aerial surveillance and hire immigration judges and Border Patrol agents to respond to the flood of 52,000 children."[1] In other words, the "solution" was to repel migrants.

To the extent that other responses were on offer in the political mainstream, they fell within the narrow confines of the international refugee regime. International law defines a refugee as someone who has a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion" and cannot rely on "their national governments for protection."[2] It makes a sharp distinction between refugees and "migrants," those who are likely fleeing deprivation and poverty of the everyday, "normal" sort—normal in terms of reigning political-economic conditions within their home country. As the United Nations High Commissioner for Refugees (UNHCR) explains on its website, "Migrants, especially economic migrants, choose to move in order to improve the future prospects of themselves and their families. Refugees have to move if they are to save their lives or preserve their freedom."[3] Following this logic, the critics of the Obama admin-

istration's practices (who range from migrant rights advocates to progressive and mainstream Democrats) argued that the women and children from the Northern Triangle who are said to be in the United States "illegally" had a right to stay—even if only temporarily.[4]

In making this argument, the critics of Obama administration policy accepted the narrow international definition of who is and is not "deserving" of asylum. The result is that the criticism could bear fruit only to the extent that US authorities accepted and acknowledged that the humans they preyed on were under extraordinary threat in their countries of birth. Under this framing, would-be deportees have a right to stay in the United States not because of who they are—as human beings—but because of a determination as to what nefarious forces have done to them, or may do to them, should they be deported to their countries of origin.

Merely asking that Washington be more inclusive in its classification of those under threat, the critique, one supported by many progressives, allows the US government to remain the arbiter of who belongs and who does not, thus ensuring future waves of deportation. Moreover, it disregards an expansive notion of human rights, particularly a human right to mobility.[5] Even if one refuses to accept such a right, a basic concept of justice demands recognition that migration involving the movement of people from exploited and relatively impoverished parts of the world to countries of relative wealth and privilege is, or at least should be, a right born of debt—an imperial debt. The right to migration, in other words, is a form of reparations.

The logic of reparations has become especially powerful in the aftermath of the Nazi-perpetrated Holocaust as a way to address both past and associated present-day injustices. While, for the most part, focused on atrocities associated with war, reparations can and do address a whole range of injustices with the goal of compensating victims for various forms of loss.[6] In recent years, for example, the matter of climate debt—that which countries that have historically emitted disproportionately large amounts of greenhouse gases arguably owe to low-emitting countries (and often those most detrimentally impacted by climate change)—has increasingly become a topic of debate in international negotiations surrounding climate change.[7]

This chapter makes the case for reparations in the form of freedom of movement and residence (from the Global South to the Global North) by exploring the making of the relationships between Honduras and the United States from the late 1800s to the present. In doing so, it explicates the US role in the production of the dispossession and insecurity experienced by so many in present-day Honduras and the associated migratory ties between the two countries. The chapter thus illustrates how the injustices associated with a world built on, among other things, the injustices of imperialism underlie unauthorized mobility between countries of relative disadvantage and privilege as well as growing efforts

to police migrants and boundaries. In other words, the case study has implications far beyond Honduras.

Planting the Seeds of US-Honduras Migration

Honduras is located in what many have referred to as "America's backyard." The term "backyard," according to George Black, characterizes a place where "one can act without inhibitions" and "where the garbage is dumped."[8] Moreover, it is "an area for play, experimentation, and control, a place where the owner makes his own laws, a laboratory for ideas that will be tried out later on the broader world beyond its walls." While US relations with countries in its "backyard" are, and have been, variously fraught, few countries in the region are as emblematic of Black's characterization as Honduras. Long a site of US multinational corporate activity and Washington's imperial machinations, Honduras likely served as the inspiration for the writer O. Henry's mythical country, the Republic of Anchuria, for which he coined the moniker "Banana Republic" in 1904.

US-based banana interests began setting up shop on Honduras's northern coast in the late 1890s. They "built railroads, established their own banking systems, and bribed government officials at a dizzying pace," writes historian Walter LaFeber.[9] As a result, the country's Caribbean coast "became a foreign-controlled enclave that systematically swung the whole of Honduras into a one-crop economy whose wealth was carried off to New Orleans, New York, and later Boston."

A 1907 revolution overthrew the country's president, Manuel Bonilla. In response, Sam (the Banana Man) Zemurray, the most infamous among US fruit titans, allied himself with the deposed leader and an American mercenary named Lee Christmas. Together with a military force assembled in New Orleans, they toppled the new Honduran government. Washington's consul appointed an acting president, and Christmas became commander in chief of the country's army and, not long afterward, the new US consul. Subsequently, Bonilla reassumed the presidency and continued the provision of favorable concessions to foreign banana companies. By 1914, they owned almost one million acres of Honduras's best land, holdings that grew through the 1920s to such an extent that, asserts LaFeber, Honduran peasants "had no hope of access to their nation's good soil."[10] Over a few decades, US interests also came to dominate the country's banking and mining sectors.

Central to this domination was the Honduran military. By the mid-1960s, it had become the country's "most developed political institution," an institution that Washington played a key role in shaping.[11] One manifestation of this was a mutually beneficial May 1954 agreement that promised US military assistance.

Honduras in turn pledged "to facilitate the production and transfer" to the United States of its "raw material and semi-processed materials" required to address any deficiencies in the US resource supply.[12] The pact facilitated Washington's use of Honduras as a staging ground for interventions elsewhere—most notably in the overthrow of the progressive Arbenz government in Guatemala one month after the accord's signing.[13]

It was also during the 1950s when migration from Honduras to the United States began in a serious way. It was a time when the Honduran banana economy was at its peak. A large portion of the migrants were from Garifuna communities on the country's Atlantic coast, and worked in the US-dominated fruit sector and on ships transporting fruit to the United States. As New Orleans was a primary banana port, it was in that city that many Hondurans established themselves.[14] Still, the Honduras-origin population in the United States was small. What would lead to marked increases in migration began to take place during the Reagan administration in the 1980s as the ties between the United States and Honduras became more intense, thus revealing how migration is often a manifestation of a profoundly unequal and exploitative relationship between migrant-sending countries and countries of destination.

From the Reagan "Roll Back" to Obama Neoliberalism

During the Reagan years (1981–89), US political and military policy was so influential that many referred to the Central American country as the "U.S.S. Honduras" and the "Pentagon Republic."[15] As part of its effort to overthrow the Sandinista government in neighboring Nicaragua and "roll back" the region's leftist movements, the Reagan administration "temporarily" stationed several hundred US soldiers in Honduras. Moreover, it trained and sustained Nicaragua's "contra" rebels on Honduran soil, while greatly increasing military aid and arm sales to the country. The Reagan years also saw the construction of numerous joint Honduran-US military bases and installations. Such moves greatly strengthened the militarization of Honduras. In turn, political repression grew, one manifestation being a dramatic increase in the number of political assassinations, "disappearances," and illegal detentions.[16]

Despite such problems, Honduras did not undergo a large-scale civil war in the 1970s and 1980s—unlike El Salvador, Guatemala, and Nicaragua. And while many in Honduras experienced dislocation related to the "modernization" of the agricultural sector and the industrialization of the country's northern region in the decades of the 1960s, 1970s, and 1980s, the migration that resulted was largely internal.[17]

Following the fall of the Soviet Union, Honduras increasingly pursued neoliberal policies that prioritized urban-based, export-oriented industrialization,

particularly garment manufacturing. In doing so, the Honduran state deemphasized rural development with a focus on improved livelihoods in nonurban areas. These changes dovetailed with the dismantling, in 1989, of a price regulatory system of commodity coffee, one established by the International Coffee Accord and undone, in significant part, by the Reagan administration, leading to a sizeable increase in the volatility of prices and income received by coffee farmers in Honduras and across the world.[18] Together, these developments led to a marked increase in emigration from the Honduran countryside to urban areas within Honduras or across Mexico's northern boundary into the United States in the 1990s.[19]

In the post-Reagan era, Honduras continued to struggle with a heavy-handed military. Yet there were also liberalizing tendencies in the succession of governments. These openings coupled with strong grassroots organizing—particularly by workers and peasants—culminated in a rare ray of hope in the form of the election of liberal reformist Manuel Zelaya in 2006.[20] He led on progressive measures such as raising the minimum wage. He also tried to organize a plebiscite to allow for a constituent assembly to replace the country's constitution, which had been written during a military government.[21] Such efforts, however, incurred the ire of the country's oligarchy, leading to his US-backed overthrow by a military coup in June 2009.[22] More than any other development, the coup and its aftermath explain the increase in Honduran migration across the southern US boundary beginning in 2014.

The Obama administration played an important role in Zelaya's overthrow. Although it officially decried the ouster, the administration equivocated on whether or not it constituted a coup, which would have required the US government to stop sending most aid to the country.[23] Hillary Clinton, in particular, during her stint as the Obama administration's secretary of state, sent conflicting messages and worked to ensure that Zelaya did not return to power. This was contrary to the wishes of the Organization of American States, the leading hemispheric political forum composed of the thirty-five member countries of the Americas, including the Caribbean.[24] Several months after the coup, Clinton supported a highly questionable election aimed at legitimating the post-coup government.[25] Meanwhile, strong military ties between the United States and Honduras persisted. One manifestation was the continued stationing of several hundred US troops at Soto Cano Air Base—the "temporary" stationing of troop begun under Ronald Reagan proved to be enduring across many US administrations—near the Honduran city of Comayagua. Rather than fighting any alleged communist menace, the US troops were now there in the name of fighting the "war on drugs" and providing humanitarian aid.[26]

In the years that followed the coup, asserts historian Dana Frank, "a series of corrupt administrations . . . unleashed open criminal control of Honduras, from top to bottom of the government."[27] Organized crime, drug traffickers, and

the country's police were virtually one and the same, and impunity reigned in a country with frequent politically motivated killings.[28] In 2016, according to Global Witness, an international nongovernmental organization, Honduras was the world's most dangerous country for environmental activists.[29] It was also a very dangerous country for its youth due to violent gangs that plagued many urban neighborhoods (a problem shared by other Northern Triangle countries), leading to one of the highest murder rates in the world. Meanwhile, post-coup governments built on an increasingly unregulated, "free-market" form of capitalism that made life unviable for many in Honduras.[30] Government spending on health and education, for example, declined. In this context, the country's poverty rate rose markedly. And out of this context, the so-called surge of migrants heading to the United States from Honduras arose.[31]

That said, migration is a complicated phenomenon, one that cannot be reduced to simple "push" and "pull" factors. Human beings have and exercise agency—this is true for both those who migrate and those who stay. Hence, the choice to migrate is subjective, at least to a significant degree, but that choice is also very much shaped by structural factors.[32] In the case of Honduras-US migration, decidedly unequal binational ties and the related ravages of everyday life underlie movement northward. They are inequities and manifestations of violence that Washington's "foreign policy" apparatus—in its military, commercial, and diplomatic guises—and US-based multinational corporations have helped bring about and make life there untenable for many. In this regard, Honduran migrants in, or heading toward, the United States are first and foremost the "harvest of empire," as suggested by the title of the eponymous book by Juan Gonzalez.[33] They embody US culpability for much of Honduras's past and inextricably tied present-day plight. Honduran migrants also illustrate how deeply interconnected, and unjustly so, US and Honduran societies are, a reality that strict boundary and immigration policing—and the larger regime of noncitizen exclusion—embodies, disguises, and works to erase. US responsibility for helping to create the conditions that drive much of the out-migration from Honduras also should negate any justification by the US government to deport and deny rights of residence to people of Honduran origin.

Conclusion: The "Nature" of Migration and Reparations

In addition to political-economic and military factors, "natural" phenomena have also informed migration from Honduras to the United States.[34] Perhaps the best known example is Hurricane Mitch in 1998. In one week, almost a year's worth of rain fell on large areas of Central America, killing twenty thousand and displacing about two million individuals across the region. Honduras, given its preexisting political-economic and ecological vulnerabilities, was especially

hard-hit, particularly in low-lying areas. As a result, out-migration from the country increased threefold in the hurricane's aftermath.[35] This speaks to the findings of one report that ranks Honduras first in terms of the world's countries most detrimentally impacted by extreme weather events associated with climate change in the period running from 1995 to 2014.[36]

Among the manifestations of climate change in Honduras is the spread of coffee rust, a plant-choking disease. The fungus is not new to the region, but its presence has exploded in the past few years due to increasingly erratic and generally warmer weather associated with global climate change. In the process, the disease has devastated Central American coffee production and the many rural livelihoods that depend on the coffee economy.[37] Another is intense drought. While Central America has long been characterized by a "dry corridor," the extent of that corridor has grown markedly in recent years, as has the lack of precipitation. This resulted in about 3.5 million people needing humanitarian assistance in El Salvador, Guatemala, and Honduras in 2016. Weather events associated with El Niño help to explain the situation, but climate change has significantly exacerbated it.[38] Such developments have contributed to displacement and growing out-migration to the United States from Northern Triangle countries. Given increasing disruption of the climate system, there is little reason to expect climate-change-induced out-migration to the United States *not* to endure—not least between Honduras and the United States given the strong ties between the two countries.[39] In this regard, we might consider many of those who leave Honduras for the United States to be, at least in part, "climate refugees."[40]

The United States "owns" a disproportionately large share of the responsibility for the carbon dioxide emissions that drive climate change. Since the dawn of the industrial revolution—roughly the mid-nineteenth century—the United States has produced more than a quarter (25 percent) of those emissions.[41] Honduras, by contrast, is responsible—in both absolute and relative (to its population) terms—for a negligible amount.

Instead of recognizing the need to reap what it has helped to sow—through its foreign and military policy apparatus and its embrace of a carbon-intensive lifestyle—the US government has increased the apparatus of migrant policing and exclusion along, beyond, and within the country's perimeter.[42] A key measure in the US government's response has been to "thicken" the US-Mexico boundary, by enrolling Mexico in its regime of exclusion. While Mexico has long cooperated in Washington's efforts to prevent unauthorized migrants from reaching US territory, the collaboration has reached new levels in recent years.[43] As Daniel Ojalvo, a worker at a migrant shelter in the Mexican state of Oaxaca, explains, "The U.S. border starts at Guatemala now."[44]

In other words, having undermined the "right to stay home" for many—the right to a homeland in which a life of basic well-being is viable—Washington

denies those it has effectively compelled to leave the right to go somewhere thought to provide greater social and biophysical security.[45] Many migrants, of course, proceed northward nonetheless—often taking ever more costly and often deadly journeys to reach the United States, the desired destination of most. If they succeed, they must lead semiclandestine lives and endure the indignities that their "illegal" status facilitates and requires—from poverty wages to constant threat of arrest and divided families. Or they ask for asylum upon arriving, and risk long periods of detention, eventual rejection, and deportation back to the countries from which they have fled, frequently under duress—with sometimes fatal consequences.

This is an outcome that the international human rights regime facilitates. The Universal Declaration of Human Rights (UDHR), adopted by the United Nations in 1948 as "a common standard of achievement for all peoples and all nations," asserts the right of all "to seek and to enjoy in other countries asylum from persecution" (Article 14, 1). It also enshrines the right of exit from a country (Article 13, 2). It says nothing, however, about a right of entry—except into one's own country—as the document's framers had no intention of challenging the ability of nation-states to regulate movement from without.

The effect is to deny many their most basic human rights. In a world of pervasive poverty, unprecedented inequality, and widespread instability and insecurity, the power to move across national boundaries is tied to the ability to realize those rights. They include a right to life, a right to a standard of living adequate for the health and well-being of oneself and one's family, and a right to work under just conditions—all of which are contained in the UDHR.

National territorial boundaries thus often have life-and-death implications. The global poor and disadvantaged, in their great majority those historically constructed as people of color, are typically forced to subsist where there are insufficient resources. Or, in order to overcome their deprivation and insecurity, they are compelled to try to leverage authorized access to the national spaces of privilege—the odds of success of which are extremely small—or risk their lives trying to overcome boundary controls put into place by countries that reject them—at least officially.

Historical injustices coupled with the rapacious consumption and dispossession associated with colonizing and imperialist powers are why so many in Honduras (and elsewhere across the world) today do not enjoy a right to stay—in places of origin rendered inviable. Remedying this requires, among other things, a right to move (i.e., migrate).[46] In the case of Honduras in particular, given the US role in producing the Central American country as one scarred by pervasive and multiple forms of violence, its people should enjoy the same rights to freely access the United States—as a place of residence and work—as denizens of any other US territory acquired through imperialism (and not fully

incorporated into the constitutional order) such as Puerto Rico and Guam. Of course, other countries could make a similar reparations-based claim to a right to migrate to the United States on the basis of Washington's destructive impact on their homeland. In this regard, this argument embodies a slippery slope—and intentionally so.

Only by realizing such a right for all can we put an end to the seemingly endless migration-related "crises" that occur within and along the territorial boundaries of the United States. Achieving this right and ending the crises will not occur by asking the federal government to be more "humanitarian" in carrying out its regime of migrant and territorial exclusion. They will come about only by demanding—and fighting for—a very different world, one in which the US government does not undermine the very conditions that make life viable in migrant-sending countries such as Honduras. This would be a world in which the US state does not block those fleeing the ravages Washington has helped to produce from seeking a better life in US territorial confines—if not for reasons of common humanity, then, at the very least, as compensation for the conditions it created.

NOTES

1. Michael Shear and Jeremy Peters, "Obama Asks for $3.7 Billion to Aid Border," *New York Times*, July 9, 2014, A1.

2. See Convention Relating to the Status of Refugees, http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfRefugees.aspx.

3. See the United Nations High Commissioner for Refugees Turkey page, http://www.unhcr.org/turkey/home.php?lang=en&page=72.

4. National Hispanic Leadership Agenda, "Latino Leaders to Obama: No More Inhumane Deportation Raids" (May 13, 2016); "Critics Blast Obama over Deportation Raids Targeting Central American Women and Children," *Newsweek*, April 17, 2016; Evelyn Rupert, "Sanders Starts Petition against Surge in Deportations," *The Hill*, May 14, 2016.

5. Joseph Nevins, "A Matter of Life and Death: Human Rights at the Boundaries of Immigration Control," in *Hidden Lives and Human Rights in America: Understanding the Controversies and Tragedies of Undocumented Immigration*, ed. Lois Lorentzen (Santa Barbara, Calif.: ABC-CLIO, 2014), 275–300; Joseph Nevins, "The Right to the World," *Antipode* 49, no. 5 (2017): 1349–67.

6. Joseph Nevins, "Restitution over Coffee: Truth, Reconciliation and Environmental Violence in East Timor," *Political Geography* 22, no. 6 (2003): 677–701; Joseph Nevins, *A Not-So-Distant Horror: Mass Violence in East Timor* (Ithaca, N.Y.: Cornell University Press, 2005).

7. The Paris Agreement of 2015 ultimately did not incorporate reparations into the final text. It did, however, enshrine a commitment from signatory countries to undertake emissions cuts so as "to reflect equity and the principle of common but differentiated responsibilities." While significantly short of reparations, this commitment acknowledges some of the logic of those advocating climate reparations—particularly the fact that some

are more responsible for climate change than others and thus have greater responsibility to take reparative action. See Rishikesh Ram Bhandry, "The Hurdle of Climate Reparations," *Global Policy*, October 16, 2015.

8. George Black, *The Good Neighbor: How the United States Wrote the History of Central America and the Caribbean* (New York: Pantheon, 1988).

9. Walter LaFeber, *Inevitable Revolutions: The United States in Central America* (New York: Norton, 1984), 43.

10. LaFeber, *Inevitable Revolutions*, 45–46.

11. LaFeber, *Inevitable Revolutions*, 182.

12. LaFeber, *Inevitable Revolutions*, 182.

13. Stephen Kinzer, *Overthrow: America's Century of Regime Change from Hawaii to Iraq* (New York: Times Books, 2007).

14. Daniel Reichman, *The Broken Village: Coffee, Migration, and Globalization in Honduras* (Ithaca, N.Y.: ILR Press, 2011), 42.

15. John Otis, "Honduran Army Digs in to Fight Change," United Press International, February 9, 1991; Philip Shepherd, "The Tragic Course and Consequences of U.S. Policy in Honduras," *World Policy Journal* 2, no. 1 (1984): 109–54.

16. Elvia Alvarado, *Don't Be Afraid, Gringo: A Honduran Woman Speaks from the Heart: The Story of Elvia Alvarado*, trans. Medea Benjamin (San Francisco: Institute for Food and Development Policy, 1987); Andrea DeGaetani, "Human Rights in Honduras," *Human Rights and Human Welfare* 2006 (2006): 104–14; Joan Kruckewitt, "U.S. Militarization of Honduras in the 1980s and the Creation of CIA-Backed Death Squads," in *When States Kill: Latin America, the U.S., and Technologies of Terror*, ed. Cecilia Menjívar and Néstor Rodríguez (Austin: University of Texas Press, 2005), 170–97; National Security Archive, "Secret CIA Report Admits: 'Honduran Military Committed Hundreds of Human Rights Abuses' and 'Inaccurate' Reporting to Congress" (Washington, D.C.: National Security Archive, October 23, 1988); James M. Scot, *Deciding to Intervene: The Reagan Doctrine and American Foreign Policy* (Durham, N.C.: Duke University Press, 1996).

17. Reichman, *Broken Village.*

18. Joseph Nevins, "Dying for a Cup of Coffee? Migrant Deaths in the US-Mexico Border Region in a Neoliberal Age," *Geopolitics* 12, no. 2 (2007): 228–47.

19. Reichman, *Broken Village*, 45–46.

20. Alex Main, "Honduras: The Deep Roots of Resistance," *Dissent*, Spring 2014; James Phillips, *Honduras in Dangerous Times: Resistance and Resilience* (Lanham, Md.: Lexington Books, 2015).

21. Mark Weisbrot, "The High-Powered Hidden Support for Honduras' Coup," *Los Angeles Times*, July 23, 2009.

22. Mark Weisbrot, "Hard Choices: Hillary Clinton Admits Role in Honduran Coup Aftermath," *Aljazeera America*, September 29, 2014.

23. Arshad Mohammed and David Alexander, "Obama Says Coup in Honduras Is Illegal," Reuters, June 29, 2009. The United States equivocated on whether or not it constituted a coup (Mark Weisbrot, "Top Ten Ways You Can Tell Which Side the United States Government Is on with Regard to the Military Coup in Honduras," *Common Dreams*, December 16, 2009), which would have required the US government to stop sending

most aid to the country. Karen Attiah, "Hillary Clinton's Dodgy Answers on Honduras Coup," *Washington Post*, April 19, 2016.

24. Weisbrot, "Top Ten Ways."

25. Elisabeth Malkin, "Fate of Ousted Leader Clouds Election Result in Honduras," *New York Times*, November 30, 2009.

26. Shaun Emery, "JTF Bravo Play Vital Role in Navy Humanitarian Mission," Armed Forces Press Service, August 10, 2007; Christopher Looft, "US Military Supporting Honduras Drug War with new Forward Bases," *InSight Crime*, May 7, 2012.

27. Dana Frank, "Who's Responsible for the Flight of Honduran Children?," *Huffington Post*, September 8, 2014.

28. John Perry, "Ten Days in Honduras," *London Review of Books*, July 2015.

29. Autumn Spanne, "Why Is Honduras the World's Deadliest Country for Environmentalists," *Guardian*, April 7, 2016.

30. Manuel Perez-Rocha and Julia Paley, "What 'Free Trade' Has Done to Central America," *Foreign Policy in Focus*, November 21, 2014; Kirk Semple, "Fleeing Gangs, Central American Families Surge toward U.S.," *New York Times*, November 12, 2016, A6.

31. Jake Johnston and Stephan Lefebvre, "Honduras since the Coup: Economic and Social Outcomes" (Washington, D.C.: Center for Economic and Policy Research, November 2013).

32. Reichman, *Broken Village*.

33. Juan Gonzalez, *The Harvest of Empire: A History of Latinos in America* (New York: Penguin, 2000).

34. See Joseph Nevins, "Reframing the 'Nature' of the Migration Debate," *NACLA Report on the Americas* 48, No. 4 (2016): 326–27.

35. Robert McLeman and Lori Hunter, "Migration in the Context of Vulnerability and Adaptation to Climate Change: Insights from Analogues," *Wiley Interdisciplinary Reviews: Climate Change* 1, no. 2 (2010): 450–61; see also Reichman, *Broken Village*.

36. Sönke Kreft, David Eckstein, Lukas Dorsch, and Livia Fischer, "Global Climate Risk Index 2015: Who Suffers Most from Extreme Weather Events? Weather-Related Loss Events in 2014 and 1995 to 2014" (Bonn: Germanwatch, November 2015).

37. Jacques Avelino, Marco Cristancho, Selena Georgiou, and Carmen Morales, "The Coffee Rust Crises in Colombia and Central America (2008–2013): Impacts, Plausible Causes and Proposed Solutions," *Food Security* 7, no. 2 (2015): 303–21.

38. Food and Agricultural Organization of the United Nations (FAO), "To Reduce El Niño's Impact on Central America's Dry Corridor, Build Resilience and Invest in Sustainable Agriculture" (June 30, 2016); Tim Rogers, "Will Climate Change Hasten Central American Migration to US?," *Fusion*, August 14, 2014.

39. Muzaffar Chisthi and Faye Hipsman, "Increased Central American Migration to the United States May Prove an Enduring Phenomenon" (Migration Policy Institute, February 18, 2016).

40. See Todd Miller, *Storming the Wall: Climate Change, Migration, and Homeland Security* (San Francisco: City Lights Books, 2017). See also Reece Jones, *Violent Borders: Refugees and the Right to Move* (London: Verso, 2016).

41. Justin Gillis and Nadja Popovich, "The U.S. Is the Biggest Carbon Polluter in History," *New York Times*, June 1, 2017.

42. Todd Miller, *Border Patrol Nation: Dispatches from the Frontlines of Homeland Security* (San Francisco: City Lights Books, 2012); Joseph Nevins, *Operation Gatekeeper and Beyond: The War on "Illegals" and the Remaking of the U.S.-Mexico Boundary* (New York: Routledge, 2010).

43. Sonia Nazario, "The Refugees at Our Door," *New York Times*, October 10, 2015, SR1; Miller, *Storming the Wall*.

44. Joseph Sorrentino, "How the U.S. 'Solved' the Central American Migrant Crisis," *In These Times*, May 12, 2015.

45. David Bacon, *The Right to Stay Home: How US Policy Drives Mexican Migration* (Boston: Beacon, 2014).

46. See Nevins, "Right to the World."

CHAPTER 8

Médecins Sans Frontières and the Practice of Universalist Humanitarianism

POLLY PALLISTER-WILKINS

"Migration should not be a humanitarian issue; it is the policies and practices of states that makes it so," said a humanitarian specialist on displacement working for Médecins Sans Frontières/Doctors Without Borders (MSF) in September 2015. This statement, made as part of a wider discussion on how the medical humanitarian organization should continue to react to the "global refugee crisis," ably captures the focus of this chapter. It suggests that human mobility in itself should not lead to suffering necessitating humanitarian relief and links the suffering faced by mobile populations to the international system of sovereign territorial states. In short, it lays bare the structures underpinning a world of tensions, between mobile life and fixed political units. However, it also suggests that while "migration should not be a humanitarian issue," it is.

So much humanitarian relief of previous decades has taken displaced populations—characterized by and rendered vulnerable through their mobility and their transversal condition—as the subjects of action with the refugee as the archetypal humanitarian recipient.[1] Humanitarianism in response has been motivated by universal ideals of humanity thought to transcend the sovereign territoriality of states that create the category of "refugee" in the first instance. Here the relief of suffering is premised on ideals and actions that aim to respond to suffering based on human need rather than exclusive categories of citizenship and nationality.[2] This "human-centered" approach to the international, or global, promises a counterpoint to a world of territorial states, where people are defined by their immediate biopolitical needs as opposed to their citizenship status. This promise is present in the name Médecins Sans Frontières/Doctors Without Borders, which aims to capture the universal value of humanity above and beyond the international order of states.

This chapter critically assesses the political possibilities of humanitarian intervention that aims to relieve the suffering of people on the move.[3] It focuses on the work of MSF, not because of the promise of a borderless world for medicine in their name, but also because I have spent the past two years researching the

specific practices of the organization as it has responded to the "humanitarian challenge" of mobile populations.[4] For the medical humanitarian organization, mobility of patients offers a "major obstacle to administering treatment, especially for those on long-term treatment regimes for chronic illnesses."[5] But more than this, it has led to new types of intervention by the organization in a departure from forms of triage focused solely on "medical need." These include search and rescue (SAR) operations in the Mediterranean, the provision of transport infrastructures such as coach services on the Greek islands in the Aegean, and the construction of transit spaces along migration corridors.[6]

What do these actions mean for the possibility of a borderless world? How are such actions both driven by and enacting a commitment to a universal ideal that seeks to structure the world in contrast to sovereign territoriality? And alternatively, how are they themselves constrained and conditioned by sovereign territory and a world of borders and an international system that cannot enforce the idea of humanitarian rights?[7] The chapter begins by situating what I have called humanitarian borderwork firmly within the system of violent and exclusive borders that produce suffering.[8] It then moves on to explore how universal humanitarianism potentially offers a counter to such orderings both conceptually and in practice, before critically suggesting that humanitarian borderwork through its intimate relationship to state sovereignty can only ever be a "sticking-plaster" for the violence of borders while working to create new forms of sovereignty and territorialization.

Here it is important to stress that in highlighting the limits of humanitarianism and its boundaries so to speak, I am making the argument that humanitarianism, or logics of care, while ethically desirable, are not enough politically in a struggle for a borderless world. In recent times, civil society has made claims to the necessity of humanitarian intervention in response to what has been termed "the refugee crisis" as if humanitarianism offered a solution. Calling on and reproducing discourses of humanitarian assistance is not sufficient to bring about change because of humanitarianism's inherent conservatism focused on reduction and alleviation rather than transformation.

The Violence of Exclusive Borders

It is not possible to discuss the presence of a borderless humanity within universal ideals of humanitarianism and the humanitarian borderwork of MSF without first understanding the intimate role borders play in producing suffering.[9] In their 1999 Nobel Peace Prize lecture, the organization took pains to highlight that "humanitarianism occurs where the political has failed or is in crisis" and that this work "does not occur in a vacuum, but in a social order that both includes and excludes, that both affirms and denies, and that both protects

and attacks."[10] A social order that includes and excludes, affirms and denies, protects and attacks? This is a sovereign order of territorial states and inclusion and exclusion, affirmation and denial, protection and violence ably describes the active work of borders themselves with their ability to include and exclude on the basis of citizenship or other categorizations, in so doing affirming and denying, protecting the included while attacking the excluded.[11]

The crises in which MSF intervenes and performs humanitarian borderwork concern the suffering produced by the various forms of exclusion enacted by sovereign states as they attempt to police their borders and maintain exclusive regimes of mobility. Within a rubric that sees humanitarianism occur within a politics of failure, failure here accounts for the failure of the sovereign order to *unconditionally* and without limits provide the necessary conditions for life. As a result there are those in the organization who advocate that "MSF should focus more on the structures, issues and institutions that keep reproducing failures."[12] These structures, issues, and institutions relate to the enactment of a particular politics of life by states at and through their borders. Here only certain categories of life—that is, certain people—are privileged with safe forms of mobility and protected by the sovereign order from the violence of exclusive territories through various border technologies and devices of mobility such as recognized and privileged passports and visas.[13] This enactment of a particular politics of life based on affirming and denying, protecting the included while attacking the excluded, is a security of the particular, where population as the subject of security and circulation as the field of action are prescribed by the limits of the sovereign state and its territorial articulation at the borders.[14]

Borders therefore have the power to "make live and let die," and they routinely do.[15] Within the context of MSF's humanitarian borderwork the Mediterranean is a paradigmatic example of the violence of an exclusive border regime that "makes live and lets die." The Mediterranean is now considered to be the world's most deadly border. As an aside, that we can even talk in terms of quantifying the world's most deadly borders speaks to the violence of borders as states attempt to police mobility and territory. Talking about a hierarchy of deadly borders should lead us to question why borders are deadly. In 2016 alone, the Mediterranean, as the world's most deadly border, accounted for 5,098 deaths out of a global 7,559.[16] And, importantly, these are known, recorded deaths. In the Mediterranean a particular politics of life is performed by a European Union border regime, fully supported by European member states, that has closed off safe and legal forms of mobility to the majority of the world's population. This border regime is underpinned by an increasingly restrictive visa policy and strict carrier's liability that turns transport companies into de facto border police denying safe passage to those without the necessary documentation required under the visa policy. This results in the European Union's border in the Mediterranean Sea becoming a space of suffering and death as people on the move

attempt to seek life—in all its political, social, and economic iterations—in Europe.[17]

It is against this backdrop and because of this border violence that humanitarian borderwork is performed. It is in contrast to this exclusive sovereignty expressed through the violence of borders that humanitarianism as both an ideal and a practice attempts to offer an alternative form of ordering and action. This border violence produces and subsequently structures the humanitarian response of MSF as the organization attempts to recalibrate borderwork around supposedly universal ideals of safety and dignity for all, "compelled by the scope and urgency of the tragedy unfolding at sea and the belief that such intervention could reduce mortality by drowning."[18] Furthermore, there was concern that the delivery of humanitarian assistance in non-European settings was becoming a form of containment itself, helping to reconsolidate state sovereignty and territorial control.[19]

For some in the organization there is clear recognition that it is the exclusive nature of Europe's borders that leads to people risking their lives to seek life and that more generally borders have become a central cause of human suffering.[20] Through engaging in humanitarian intervention at the border, MSF could use the opportunity to speak out against the structural causes of what they understand as a "man-made disaster."[21] Such action fits clearly within the MSF tradition of not only *témoignage* (testimony/bearing witness) but also *ingérence* (roughly translated as interference or a right to intervene), both of which underpin MSF's identity as a movement without borders and without the need to respect state sovereignty.[22]

The Possibilities of Universal Humanitarianism

"National boundaries and political circumstances or sympathies must have no influence on who is to receive humanitarian help" was how MSF outlined their approach to the relief of suffering in a world of sovereign states and national boundaries in their 1999 Nobel lecture.[23] Volunteer-activists mobilized across Europe in response to the "refugee crisis" have repeatedly called for a greater humanitarian response. Human rights organizations such as Amnesty International and Human Rights Watch have shifted beyond a rights-based activism to also make the case for the need for humanitarian intervention in the first instance. But what possibilities does humanitarianism really hold? What alternative forms of ordering does humanitarianism offer? And what does *sans frontières* really mean beyond the theoretical?

Humanitarianism as a form of reason, as well as an approach to government, developed over time with a rich and complex genealogy. It claims to be predicated on universal ideals of humanity, where humans are the principal subjects

and respect for, and the security of, human life is the main ordering principle.[24] As such, humanitarianism seems to offer an alternative ontology for the world (I purposefully refrain from using the term "international," rooted as it is in the assumption of a world of states). The idea of what some have called a sovereignty of responsibility stands in contrast to the territorialized and exclusive forms of responsibility enacted by states through the relationship between border control and citizenship.[25] In this ontology the main subject of protection is first and foremost humanity itself. It is humanity, made up of equivalent individuals, that is being defended in the first instance. Nowhere in this approach to human life is the state assumed to be the principal agent of protection. Human beings are responsible for the well-being of their fellow humans in relationships of reciprocity designed to relieve suffering, prevent death, and uphold dignity for the good of all. A universal humanity, undifferentiated by processes of inclusion or exclusion or by nationality or state borders, is in this configuration the ultimate good. Protection comes to be configured around need rather than forms of belonging dictated by the sovereignty of states. To be human is to be protected from pain and violence. This is a moral economy premised on the recognition of suffering as opposed to recognition of subjecthood by the state.

It is clear then that such a worldview offers a way of thinking about a borderless world. The idealized world of humanitarianism is a world ordered around humanity itself and according to need. It is a world where sovereignty is configured as responsibility for life as opposed to being oriented around exclusive forms of belonging and monopolies on the legitimate use of violence contained within bounded territories. It offers a different conception of what it means to "be" and "act" in the world above and beyond the interests of states. It is unsurprising, therefore, that humanitarian action has long seemed appealing for those of a more "internationalist" persuasion and those seeking a normative framework separate from or in contrast to the social contract of the modern state built on exclusive forms of citizenship. Humanitarianism offers a blueprint for action that seemingly transcends the chauvinism of the state and its borders. It appears to offer a field of intervention based on the inclusivity of humanity itself where nationality and state identity do not matter and no one can be excluded. In its Nobel lecture MSF put it thus:

> Humanitarian action is by definition universal, or it is not [humanitarian]. Humanitarian responsibility has no frontiers. Wherever in the world there is manifest distress, the humanitarian by vocation must respond. By contrast, the political knows borders, and where crisis occurs, political response will vary because historical relations, balance of power, and the interests of one or the other must be considered. The time and space of the humanitarian are not those of the political.[26]

For MSF then, borders are clearly political articulations, the product of politics, while humanitarian responsibility transcends the political world of borders and

sovereign states. One member of MSF with considerable field experience argued that "access to protection must not be bounded by state borders," echoing the refrain of the organization as a whole.[27]

There are many in the organization driven by the promise offered by humanitarianism in what they see as an increasingly violent world. "MSF can and must stand for something different" as someone from the Operational Centre in Amsterdam insisted. However, humanitarianism in practice is also a history of different approaches to state sovereignty and territorial borders. A genealogy of logics that we could recognize as humanitarian have historically intersected with sovereign and colonial power. Humanitarian logics underpinned the colonial expansionist geographies of the British Empire as relief of human suffering and the protection of life came to structure various forms of intervention by colonial authorities as they attempted to police the lives of the colonized. This extends from the British "native police forces" in Australia created to range the outback and "protect" the aboriginal population from the violence of white settlers to the use of "carceral/protected villages" by the French in Algeria and the British in Malaya.[28] In these instances, however, logics that concerned the protection of life were still limited and structured around logics of colonial citizenship or subjecthood as opposed to being truly universal in their scope and application. Aboriginal subjects were "worthy" of protection from the British Crown in the colonies of what is now Australia exactly because they were sovereign subjects of the British Crown.

Humanitarianism is perhaps more recognizable as independent action undertaken by nonstate actors. These humanitarian organizations, such as the International Committee of the Red Cross (ICRC), seek to distinguish themselves exactly through their nonsovereign nature. However, this form of humanitarian action as encompassed by the self-appointed guardians of humanitarianism, the ICRC, has sought to work in conjunction and with respect for state sovereignty. Structured around respect for sovereignty, principles of strict neutrality and impartiality, traditional humanitarianism as practiced by the ICRC saw for example the organization stay silent about the horrors they witnessed in Nazi concentration camps during the Second World War.[29]

Considering MSF specifically, its tradition of *ingérence*—"the humanitarian by vocation *must* respond"—appears to challenge the respect for sovereignty held by the ICRC. For MSF suffering does not respect borders, and therefore neither should the humanitarian response. As a result there seems to be a borderless logic built into the very idea of *ingérence*, founded as it is on a different ordering principle of universal humanity as opposed to sovereign states. *Ingérence* appears in theory to offer the possibility for the borderless provision of protection, over, or in spite of, the persistence of state sovereignty. This *ingérence* sees MSF demand full and unhindered freedom in the exercise of its functions including the freedom to move when and where it wants without the permis-

sion of sovereign states.[30] Such action is clearly "without borders" or at the very least "in spite of borders." However the extent to which this borderless action is universal, extending beyond the humanitarian workers themselves to include those "equivalent individuals" in need, is questionable when one moves from an idealized theory and into practice.

Universal Possibilities and Violent Borders in Practice

If humanitarian action is "an ethic framed in morality it must be confronted with its actual result."[31] So what does an ethic of borderless humanitarianism look like when confronted with its actual result? Can we still talk of humanitarianism offering a possibility for a borderless world in practice? I now move on to assess the possibility of "without borders" both through the way MSF chooses to talk about its work in a world of sovereign states and through my own empirical observations of the organization as it has responded to the "migration crisis" in Europe over the past two years.[32] I start by questioning what happens when a theoretically borderless humanitarianism meets the sociopolitical forces of mobility before discussing *what* and *who* in humanitarian action is borderless. I then explore the contingent and complex relationship MSF has with sovereignty, including calls for a world without borders.

In the introduction to a recent special issue in *Refugee Survey Quarterly* containing reflections on MSF's organizational response to people on the move by MSFers themselves, many of whom I have had contact with in the course of my research, Tom Scott-Smith raised a number of important points concerning humanitarianism, mobility, and the political. Calling the debates around migration and border regimes "inherently political," Scott-Smith questioned the ability of classical humanitarianism to respond within a framework of "neutrality, impartiality and independence," suggesting that such a classic response was "neither possible nor particularly desirable."[33] For Scott-Smith the key issue in humanitarianism today is not that humanitarian solutions are insufficient. The issue is therefore not a technical one with a technical solution. Rather, it is that "humanitarian *problems* are insufficient," meaning that "framing an issue as distinctly *humanitarian* necessarily limits the responses available. Framing inescapably political issues such as border deaths as humanitarian ones can seriously curtail the possibilities for reducing suffering."[34] The argument of MSF from 1999 that borders and the sovereignty they prescribe belong to the world of politics while humanitarianism is beyond politics is contested in the current period by the suffering of people on the move.

The idea underpinning much of MSF's approach to humanitarian relief, that suffering does not respect borders and nor should any response, is sharply challenged by the politics of mobility and the borders that should not be respected

being the very cause of much suffering. The idea of MSF was that relief, in this instance medical humanitarian relief, should transcend borders. This is not the same as challenging the very existence of borders; this is a vision of a borderless world for humanitarian relief, not for the victims of suffering. This is a simple but central tension. During a discussion on MSF's work with people on the move, a humanitarian affairs coordinator argued unprompted, "MSF is full of borders, just look at how we have organized the organization on a global scale, with national associations. Look at how we organize our operational responses, with different national associations or operational centres focused on different states for intervention. Look at how different national sections and operational centres develop specific expertise on particular countries."[35] However, more than the existence of borders within the organizational structure of MSF or their interventions on the ground stressed above, humanitarianism itself comes up against mobility's unsettling potential for sovereignty and has profound effects on the delivery of "actual results." These effects include both the ways mobility and borders produce particular dynamics impacting on the ability for *ingérence* but also the ways in which humanitarian action itself can be understood as a form of borderwork.

In practice people on the move raise new challenges for MSF. Humanitarian actors are understood as taking on sovereign-like responsibilities over life and death with the capability to make live and let die. Like sovereign states, these practices have usually taken place within and on fixed, static, territorialized, or reterritorialized populations.[36] These practices have traditionally taken place in refugee camps where previously displaced and mobile populations are rendered static for the administering of the necessary conditions for life. And yet the camp as a tool of humanitarian government has been the subject of much critique through its enactment of both biopolitical and spatial forms of government, with some of that critique emanating from MSF itself.[37] People on the move fundamentally recalibrate the relationship between humanitarian actors and static populations as action is refocused around administering to people "in a queue," as a humanitarian specialist on displacement described it to me.[38]

Mobility and the violence of borders also expand the field of possible interventions for MSF as deaths in the Mediterranean and the SAR operations have shown. Not all of these "new" or expanded interventions are quite so spectacular or redraw the boundaries like SAR operations. SAR operations in this instance pushed the organization explicitly into areas beyond attending to immediate medical need.[39] Beyond SAR, these new interventions or new ways of working created in response to and alongside the forces of mobility include the simple use of mobile clinics. Here if the patients are mobile, then the response also becomes mobile and can be highly effective in treating precarious and transient patients with chronic conditions in need of long-term medical assistance.[40]

All of these expanded operations, from SAR operations and mobile clinics to transit spaces and bus services, are both produced by mobility and conditioned

by sovereignty and border spaces. SAR operations cannot occur without the sovereign permission of those states in charge of policing operations at sea and governing disembarkation for those rescued.[41] Transit spaces appear when state borders interrupt mobility.[42] These are the limits under which humanitarian assistance to people on the move operates, and these limits, imposed by sovereignty, have long been recognized in practice by MSF even as they have called for and made *ingérence* a key pillar of their organizational practice. For MSF, "humanitarian action comes with limitations, humanitarian action takes place in the short term, for limited groups and for limited objectives."[43]

Humanitarianism then sets limits most often according to the logics of crisis; it bounds actions in time and space, and this bounding occurs in conjunction with states or through a desire not to replace the work and role of states. "Ours is not to displace the responsibility of the state. Ours is not to allow a humanitarian alibi to mask the state responsibility to ensure justice and security. And ours is not to be co-managers of misery with the state."[44] In the context of mobility, this masking of responsibility, this creating a humanitarian alibi, is exactly what leads Scott-Smith to argue that humanitarian solutions are insufficient and that the framing of mobility—a distinctly political issue—as a humanitarian one forecloses the possibility of any substantive change that may erode the violence of borders. This is even while the organization itself claims to be engaged in apolitical work and places the responsibility for ending violence and making peace squarely at the feet of sovereign states.

MSF therefore has an ambivalent relationship with sovereignty and borders. They call for a right to free movement for themselves, meanwhile claiming when they withdrew from the 2016 World Humanitarian Summit that states are the cause of the majority of suffering and death in the world today and that only states can ultimately ensure human security and the necessary conditions for life, thereby reproducing the state as the sovereign actor over life and death.[45] For MSF, "only states can impose respect for humanitarian law."[46] Therefore the *sans frontierism* of MSF is an exclusive form of *sans frontierism*, where the humanitarian actor has the right to freely move and intervene independently from the constraints of state sovereignty, while the subjects of humanitarianism are not explicitly accorded such freedoms. The challenge of mobility for MSF is exactly this challenge where the recipients of humanitarian assistance are also transcending the constraints of state borders and leading to a recalibration in the relationship between humanitarianism and its subjects.

Humanitarianism has always been both a normative and an instrumental endeavor. Driven by ideals of a universal humanity but constrained by the practicalities of being able to act on such ideals, humanitarianism offers both a normative framework and technical solutions. The normative framework suggests the possibility of a world centered round a universal humanity, but in practice humanitarianism is anything but universal. In discussions with various MSF

practitioners, practitioners expressed their personal recognition of the problems of borders. Such a position is also articulated in a variety of ways in official publications by MSF and on social media. When asked if the organization would go so far in their advocacy efforts to call for a borderless world, the answer shifts to, as one humanitarian affairs advisor put it, "Officially we cannot do that, that is a political position we cannot take. We are a medical humanitarian organization; it is not our place to call for no borders. Such a position would make our work difficult."[47] Here the differences between normative ideals of individual practitioners and the instrumental needs of the organization are stark.

Many critics of humanitarianism's claims to universalism focus on its history as a distinctly European ontology, but there are other ways that the limits of humanitarianism can be understood in specific relation to both state sovereignty and borders.[48] As we have seen, the work of MSF in practice has an ambivalent relationship with sovereignty, and its work is challenged when recipients claim freedom of movement for themselves. However, there are other ways in which the universal possibilities of humanitarianism are put into sharp relief and can be seen as agents of borderwork, bounding, setting limits, and producing a particular politics of life.

In an MSF discussion forum on the role of categorization and the production of particular politics of life, a humanitarian affairs specialist specializing in displacement had the following to say:

> We are not dealing with fixed categories of people. We are dealing with mixed flows. . . . When we talk about legal status within MSF we talk from the perspective of the state. When we say Syrian, Eritrean, etc., this produces states, we reduce people to state identities, state categories. The approach based on nationalities is very dangerous. There are lots of other categories of people that need to be protected beyond those who fit the status of refugee. . . . Our commitment is to people not to categories of people determined by state-legal categories that comes from a European World War Two experience as enshrined in the Geneva Conventions. If we argue that some are more worthy than others then we risk engaging in these policies and practices ourselves.[49]

Border studies has, over the past few years, begun to focus more substantively on categorization as a bordering practice.[50] Humanitarian practice itself generates particular categories of people as much as organizations such as MSF may wish to avoid the power of categorization and reproducing particular regimes of inclusion and exclusion. In offering relief to people on the move, care is taken to avoid providing relief on the basis of state-based categories. Instead care is provided on the basis of need.

There were at times heated discussions within the organization over decisions to, as someone in humanitarian affairs says, "focus on those who suffer rather than those who are worthy."[51] Such a decision recast need and its attendant suffer-

ing as the basis for assistance. While the provision of this relief may in theory be universal, as discussed earlier, in practice need as the basis for medical forms of triage (humanitarian/medical sorting) becomes an alternative form of categorization. Recasting intervention around "suffering" as opposed to whether people are "worthy" as, for example, political refugees as opposed to economic migrants in search of socioeconomic security raises new questions around "who is the legitimate suffering body," as a highly experienced MSF member in Greece articulates it.[52] Worth remains an ordering principle and is reconfigured around suffering as opposed to political categories emanating from the global refugee regime. Hierarchies of suffering become a new ordering principle and intersect with regimes of mobility and borderwork. Mobility comes to be predicated on categories of need and suffering reproducing new forms of inclusion and exclusion.

Furthermore, MSF engages in humanitarian borderwork not in a vacuum but as part of a complex assemblage of actors from other nongovernmental organizations to state actors including border police, coast guards, and the military.[53] MSF operates within this assemblage, and its work occurs in a contingent relationship with state sovereignty with the right to intervene being a key driver of action, while in practice much daily borderwork has to be negotiated with state border regimes.[54] The organization is torn between normative rationalities around responding to need and instrumental rationalities around the ability to respond. Within this assemblage MSF wishes to avoid engaging in state-based practices of inclusion and exclusion, while simultaneously not wanting to replace the state and absolve states of their responsibilities to respond to the needs of those at risk at the borders. It leads to the organization withdrawing from EU "hotspots" on the Greek islands after they shifted from being places of registration to spaces of detention and expulsion while in the Mediterranean engaging in SAR operations guided by and only made possible by the permission of the sovereign Italian Maritime Rescue Coordination Centre.[55] Therefore, in practice MSF has an ambivalent relationship to state sovereignty complicated further by the politics of mobility itself. When challenged at times by those with a "no borders" politics to take a more explicit position against borders, this ambivalence becomes even clearer with many in the organization suggesting that while they may share that politics personally, such a position is too political for a humanitarian medical organization affirming that *sans frontières* refers first and foremost to humanitarian practice and not to the subjects of relief or humanity as a whole. *Sans frontierism* is therefore still an instrumental rationality over and above a normative one.

Conclusion

This chapter has critically interrogated the contribution of a theoretical universal humanitarianism for a borderless world through focusing on the discourses

and practices of the medical humanitarian organization MSF. It has argued that humanitarianism may offer the theoretical possibility of a reconfiguration of social relations around a universal humanity and protection around need as opposed to citizenship. MSF has made the right to intervene without respect for state sovereignty a central aspect of its practice. However, at the everyday level of assistance, the "borderlessness" of humanitarian relief can itself be understood as a form of borderwork. The right to intervene calls for a borderless world for humanitarian relief and its practitioners, not for those in need. When confronted with the realities of people on the move and the violence of territorial borders, the borderlessness of MSF becomes more contingent and ambivalent. This is not to critique the much-needed relief work done by MSF and similar humanitarian organizations. It is to highlight the limits of humanitarianism within a world still structured around sovereign territorial states bounded by exclusive borders and to suggest that a humanitarian response can only ever be a temporary solution for the violent politics of borders today.

NOTES

1. Michel Agier, *Managing the Undesirables: Refugee Camps and Humanitarian Government* (Cambridge: Polity, 2011).

2. François Debrix, "Deterritorialised Territories, Borderless Borders: The New Geography of International Medical Assistance," *Third World Quarterly* 19 (1998): 827–46.

3. Throughout this chapter, refugees and migrants will be referred to as "people on the move" in an attempt to break down, break through, or break beyond the liberal dichotomy between "deserving" political refugees and "undeserving" (economic) migrants. It is a term I first encountered during my research with Médecins Sans Frontières (MSF).

4. My research with MSF over the past two years has involved participant observation of gatherings, meetings, and work in the field in Sicily and Greece (Lesvos, Athens, and Idomeni). As part of this research I have conducted semistructured interviews with twenty field workers, humanitarian affairs coordinators, and communication specialists in the Operational Centres in Amsterdam and Brussels and MSF's offices in Greece; in some instances I have held interviews with the same people multiple times. In addition I have had many informal discussions around the specifics of the humanitarian response to people on the move and the aims of the organization more generally during my participant observation. I have also been involved in various collaborative projects between MSF's Operational Centre in Amsterdam and my own academic institution. For more on the humanitarian challenge to mobile populations, see Polly Pallister-Wilkins, "Médecins Avec Frontières and the Making of a Humanitarian Borderscape," *Environment and Planning D: Society and Space* 36 (2018): 114–38; Aurelie Ponthieu and Andrea Incerti, "Continuity of Care for Migrant Populations in Southern Africa," *Refugee Survey Quarterly* 35 (2016): 98–115; Tom Scott-Smith, "Humanitarian Dilemmas in a Mobile World," *Refugee Survey Quarterly* 35 (2016): 1–21.

5. Ponthieu and Incerti, "Continuity of Care."

6. Hernan del Valle, "Search and Rescue in the Mediterranean Sea: Negotiating Political Differences," *Refugee Survey Quarterly* 35 (2016): 22–40; Polly Pallister-Wilkins,

"Humanitarian Borderwork," in *Border Politics: Defining Spaces of Governance and Forms of Transgressions*, ed. Cengiz Günay and Nina Witjes (London: Springer, 2016), 85–109.

7. Miriam Ticktin, "Thinking beyond Humanitarian Borders," *Social Research* 83 (2016): 255–71.

8. Pallister-Wilkins, "Humanitarian Borderwork."

9. Leanne Weber and Sharon Pickering, *Globalization and Borders: Death and the Global Frontier* (Basingstoke: Palgrave Macmillan, 2014).

10. MSF, "Nobel Lecture" (Nobel Peace Prize ceremony, Oslo, December 10, 1999).

11. Stuart Elden, "Terror and Territory," *Antipode* 39 (2007): 821–45; Michel Foucault, *Security, Territory, Population: Lectures at the Collège de France, 1977–1978* (New York: Palgrave McMillian, 2007); Barry Hindess, "Terrortory," *Alternatives: Global, Local, Political* 31 (2006): 243–57.

12. Conversation with author, September 12, 2015.

13. John Torpey, *The Invention of the Passport: Surveillance, Citizenship, and the State* (Cambridge: Cambridge University Press, 2000).

14. Foucault, *Security, Territory, Population*.

15. Michel Foucault, *Society Must Be Defended: Lectures at the Collège de France, 1975–76* (Basingstoke: Palgrave Macmillan, 2003), 241; Julien Jeandesboz and Polly Pallister-Wilkins, "Crisis, Routine, Consolidation: The Politics of the Mediterranean Migration Crisis," *Mediterranean Politics* 21 (2016): 316–20; "Crisis, Enforcement and Control at the EU Borders," in *Crisis and Migration: Critical Perspectives*, ed. Anna Lindley (London: Routledge, 2014), 115–35.

16. According to the Missing Migrants Project compiled by the International Organization for Migration, http://missingmigrants.iom.int.

17. I use the term "seek life" or "life-seeker" in recognition of the complex reasons people on the move have for attempting their migrant journeys. It is a term I first heard from Papa Stratis, a Greek Orthodox priest from the island of Lesvos who devoted his life to attending to the needs and suffering of the life-seekers he encountered even while he himself was gravely ill. He passed away in 2015. May he rest in peace and power.

18. Del Valle, "Search and Rescue in the Mediterranean Sea," 22.

19. Agier, *Managing the Undesirables*; del Valle, "Search and Rescue in the Mediterranean Sea."

20. Scott-Smith, "Humanitarian Dilemmas," 2.

21. Del Valle, "Search and Rescue in the Mediterranean Sea," 27; MSF, "Obstacle Course to Europe" (press release, December 2015).

22. Scott-Smith, "Humanitarian Dilemmas," 9.

23. MSF, "Nobel Lecture."

24. Didier Fassin, *Humanitarian Reason: A Moral History of the Present* (Berkeley: University of California Press, 2011); Craig Calhoun, "The Imperative to Reduce Suffering: Charity, Progress, and Emergencies in the Field of *Humanitarian* Action," in *Humanitarianism in Question: Politics, Power, Ethics*, ed. Michael Barnett and Thomas C. Weiss (Ithaca, N.Y.: Cornell University Press, 2008), 73–97; Stephen Hopgood, *The Endtimes of Human Rights* (Ithaca, N.Y.: Cornell University Press, 2013); Vanessa Pupavac, "Between Compassion and Conservatism: A Genealogy of Humanitarian Sensibilities," in *Contem-*

porary States of Emergency: The Politics of Military and Humanitarian Interventions, ed. Didier Fassin and Mariella Pandolfi (New York: Zone Books, 2010), 129–52.

25. Maurizio Albahari, *Crimes of Peace: Mediterranean Migrations at the World's Deadliest Border* (Philadelphia: University of Pennsylvania Press, 2015).

26. MSF, "Nobel Lecture."

27. Interview with author, April 29, 2015.

28. Alan Lester, "Obtaining the 'Due Observance of Justice': The Geographies of Colonial Humanitarianism," *Environment and Planning D: Society and Space* 20 (2002): 277–93; Laleh Khalili, *Time in the Shadows: Confinement in Counterinsurgencies* (Stanford, Calif.: Stanford University Press, 2012).

29. Hopgood, *Endtimes of Human Rights*.

30. Debrix, "Deterritorialised Territories," 834.

31. MSF, "Nobel Lecture."

32. I am not comfortable using the term "migration crisis" to discuss the suffering of people on the move and the various responses that have occurred. I am also not comfortable placing spatiotemporal limits on people's movements to the past few years and to the borders of Europe alone. I use "migration crisis" here for the purpose of clarity with the proviso that the use of the term "crisis" obscures multiple subjectivities and experiences by placing spatial and temporal limits on complex events. See Jeandesboz and Pallister-Wilkins, "Crisis, Routine, Consolidation."

33. Scott-Smith, "Humanitarian Dilemmas," 2.

34. Scott-Smith, "Humanitarian Dilemmas," 3, emphasis original.

35. Interview with author, October 14, 2015.

36. Debrix, "Deterritorialised Territories."

37. Agier, *Managing the Undesirables*; Hakim Chkam, "Aid and the Perpetuation of Refugee Camps: The Case of Dadaab in Kenya, 1991–2011," *Refugee Survey Quarterly* 35 (2016): 79–97.

38. Interview with author, May 12, 2016.

39. Del Valle, "Search and Rescue in the Mediterranean Sea," 26–27.

40. Ponthieu and Incerti, "Continuity of Care."

41. Pallister-Wilkins, "Humanitarian Borderwork."

42. Pallister-Wilkins, "Humanitarian Borderwork."

43. MSF, "Nobel Lecture."

44. MSF, "Nobel Lecture."

45. MSF, "MSF to Pull Out of World Humanitarian Summit" (press release, May 5, 2016).

46. MSF, "Nobel Lecture."

47. Conversation with author, August 25, 2015.

48. Ilana Feldman and Miriam Ticktin, eds., *In the Name of Humanity: The Government of Threat and Care* (Durham, N.C.: Duke University Press, 2010); Hopgood, *Endtimes of Human Rights*; Eyal Weizman, *The Least of All Possible Evils: Humanitarian Violence from Arendt to Gaza* (London: Verso, 2011).

49. MSF internal discussion, September 12, 2015.

50. Reece Jones, "Categories, Borders and Boundaries," *Progress in Human Geography* 33 (2009): 174–89.

51. Conversation with author, November 13, 2015.

52. Conversation with author, May 30, 2015.

53. Pallister-Wilkins, "Humanitarian Borderwork."

54. Ioanna Kotsioni, "Detention of Migrants and Asylum-Seekers: The Challenge for Humanitarian Actors," *Refugee Survey Quarterly* 35 (2016): 41–55.

55. MSF, "Greece: MSF Ends Activities inside the Lesvos 'Hotspot'" (press release, March 22, 2016).

CHAPTER 9

Border Walls and the Illusion of Deterrence

ELISABETH VALLET

The fall of the Berlin Wall and the redefinition of international relations were meant to open an age of globalization in which states and sovereignty became obsolete and borders irrelevant.[1] In the wake of the terrorist attacks of September 11, however, borders rose in prominence and new demarcations were drawn.[2] With this trend, border barriers, fences, and walls that were expected to be a historical symbol of a collapsed bipolar system were erected at a pace that defied all predictions: forty-seven border fences arose around the world in the decade following 9/11—among them nineteen following the aftershocks of the Arab Spring, plus seven in the Schengen territory in less than a year (2015–16).[3] Walls have become a normalized response to insecurity.[4]

Border walls redefine borderlines around the world, sealing and hardening what used to be porous soft borders.[5] Thus, if globalization is blurring borders, walls emphasize them.[6] The rise of border walls is not, though, a strictly post-9/11 phenomenon: studies have shown that borders never truly disappeared after the fall of the Berlin Wall and that the rise of border walls has its roots in the pre-9/11 period, for the wall-building phenomenon is fed not by a specific fear of terrorism but rather by the global insecurity bred by globalization.[7] In other words, in a security-conscious and risk-averse world, globalization has led not to the eradication of borders but rather to the redefinition of territory, and the wall defines itself as the ultimate and visible rampart to (perceived) security issues: it has become a norm of international relations, and a solution in the quest for security, sublimated through an increasingly security-centric discourse in the wake of 9/11.[8]

In that sense, a border wall is an antithesis to the border, since it is the result of a unilateral process—whereas a demarcation line is established by international agreement. Therefore, it consecrates the end of a dialogue underlining what is structurally a dysfunctional relationship between two states.[9] Realism will read the border wall as an acceptable compromise to avoid open conflict between two states and a way to alleviate the threat. In that regard, border fences

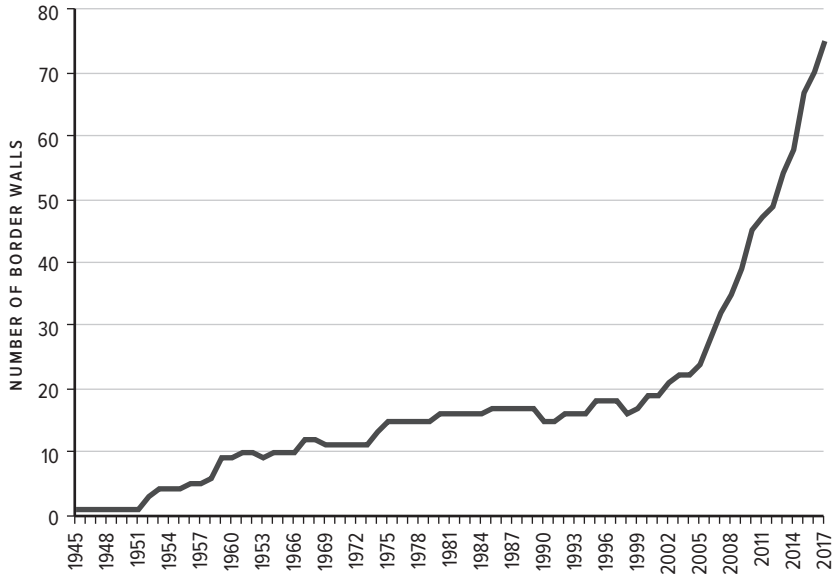

FIGURE 9.1. Border walls around the world from 1945 to 2017.
SOURCE: Data collected by Elisabeth Vallet, Zoe Barry, and Josselyn Guillarmou.

between India and Pakistan, between the two Koreas, or in Ukraine may be understood as a mean to freeze a de facto situation and mitigate the risk of direct confrontation. However, border walls are more than that, since they also offer a solution to differing opinions over security issues. More recent border barriers (anti-migration, anti-smuggling, antiterrorism) are designed to address the instability generated by the international system and its asymmetrical threats.[10] Therefore, through a constructivist lens, a border wall will be understood in terms of "securitization," namely a response to a conventional problem (migratory flows) that has come to be construed as a security issue (migratory threat): what used to be a localized risk (border violence) has become national in scope (national security).

After 9/11, wall-building-legitimating discourses have amalgamated both threats of cross-border migratory movements and terrorist movements, using them as interchangeable notions.[11] And democratic governments have also appropriated that duality.[12] For instance, Israel's perception of its borders (with Egypt, Jordan, Lebanon, Syria, and the West Bank), or India's vision of its Bangladeshi border, even Spain's apprehension toward its Moroccan border in Ceuta and Melilla, is henceforth defined in those dual terms; just as it has been the case when adopting the Secure Fence Act in the United States in 2006, or when European countries (Greece, Bulgaria, Hungary) decided to build security fences to block the flow of migrants.[13] However the data show that they may not be solving the issues at stake.[14]

My thesis is that as border defenses are reinforced, border walls reveal an "underground vulnerability."[15] In this chapter, I discuss the rise of circumvention strategies such as the creation of tunnel networks, smuggling schemes, and redrawn migration routes, making the case that border walls do not stop flows of people and goods, but divert them while fueling the underground economy and clandestine flows and making them more difficult to control.[16] At the same time, walls very seldom solve the root social problems behind the phenomena that led to their construction: they merely throw a pall over the problem, which continues to exist, unsolved, while new issues arise.

A Plurality of Justifications

The discourse of the war on terror has ratified (more than generated) the return of the wall as a political instrument of sovereignty assertion.[17] However, beyond the quantitative surge in wall building that gained speed with the Arab Spring, there has been a qualitative break in the discourse about walls.[18] Three justifications have become prevalent over the past two decades, but none of them found ground in a proven kind of effectiveness.

As of now, border walls get legitimized in different ways—the time when they were meant to halt a conflict or simply reinforce a disputed border being gone (although still 29 percent are erected for that purpose)—as globalization has seen an increase in flows that are more and more perceived as a risk to local identities and economies.

First, "illegal immigration" is being cited, particularly over the past two decades and even more so since the end of the Arab Spring, as the main justification for erecting border walls. Of the current border walls, 57 percent were (at least partially) erected for anti-immigration purposes (for example, in the Spanish enclaves of Ceuta and Melilla in Morocco, along the US-Mexico border, in Calais along an internal border with the United Kingdom, and between Turkmenistan and Uzbekistan, Uzbekistan and Afghanistan, China and North Korea, the United Arab Emirates and Oman, Brunei and Malaysia, India and Bangladesh, Turkey and Greece/Bulgaria, Hungary and Serbia). Even Norway has announced the construction of a wall on a tiny part of its Russian border north of the Arctic Circle, where a legal loophole was allowing—until 2016—refugees to legally cross the border on a bicycle.

The second justification is terrorism—27.7 percent of the claims—as, for instance, in the case of Israel along its external borders as well as with Gaza and the West Bank, or the walls between Brunei and Malaysia, Thailand and Malaysia, Saudi Arabia and Yemen, Iraq and its neighbors, Tunisia and its neighbors, Algeria and Morocco, Kenya and Somalia, Turkey and Syria, and Iran and Iraq as of 2016. It is also a recurring argument in the US Republican Party dis-

course that a wall along the Canadian border could prevent jihadi terrorism on US soil.

The third justification for building a border wall is smuggling (23.6 percent), although it is most of the time part of a wider argument including either one of the two other justifications.[19] Smuggling and illegal trade, however, are a traditional aspect of the definition of borders; hence smuggling, trafficking, and poaching as a current justification for erecting border walls may sound more like a pretext in the context of geopolitical or domestic unrest or tensions.[20]

Sometimes the arguments are ambiguous; for instance, the fight against terrorism and the fight against trafficking (smuggling, the drug trade, human trafficking) have been used at different times to legitimate the exact same barrier, or even simultaneously, as in the case of the wall between India and Bangladesh, or between Mexico and the United States.[21] It may also be fueled by both the political atmosphere and bureaucratic entrepreneurs seizing the opportunity and superposing several arguments in order to serve their own purposes.[22] In Europe for instance, "the fight against terrorism has clearly served as a justification for strengthening control mechanisms" in something that is less of a "post-11 September security syndrome" and more of a "manifestation of the populism or government xenophobia that has affected many political parties."[23] Hence, political discourses may alternate between one or the other, opportunistically sizing the electorate's receptivity to a particular argument.

Therefore, in 43 percent of the cases, border walls have multiple and even simultaneous official and implicit justifications and therefore address domestic vulnerability or geopolitical uncertainty before even solving a specific border issue.

The Difficult Assessment of Border Wall Efficiency

It is difficult to assess the efficiency of a border wall or even its deterring effect on the basis of their official legitimation since it relies simultaneously on interchangeable discourses based on a broadened and shifting definition of security. Moreover, when it depicts a border fence as a "civilizational rampart,"[24] the "language of walls" tends to blur the very reason of its erection in the first place.[25]

Carter and Poast seek to explain the erection of border walls based on economic disparities rather than "formal border disputes or concerns over instability from civil wars": they assert that border walls are erected not in relation to security threats but rather on the basis of a perception of insecurity.[26] For Cédric Parizot, the actual "efficiency of those walls has to be measured in terms of its impact on the building state public opinion" since their actual efficacy still needs to be proven.[27] In that sense, border walls are built to create "an illusion of security," since they are a response to a perceived threat that is unilaterally

constructed, which relies on the fact that security "is meaningless without an 'other' to help specify the conditions of insecurity."[28] As Henk van Houtum stated, "a line is geometry, a border is interpretation," hence, it is the "symbolic meaning attributed to the appearance of the line which must be seen as constructor of the normative form": in other terms, the border is now less of a single geographic fact, or even an objective constitutional demarcation of sovereignty, and more of a protean space where the interpretation of its meaning by one member of the dyad is key. In that regard, the discourse surrounding walls enshrines the precedence of domestic politics over foreign policy and diplomatic necessities.[29] It is more, say French geographer Michel Foucher and US geographer Reece Jones, a matter of domestic "théâtre" than a real IR/security imperative where perception prevails over assessed imminent and tangible threats.[30]

Assessing the efficiency of the border fence will vary with the lens used to address the situation. Since border walls target nongovernmental organizations and actors, it is all the more difficult to evaluate its effectiveness when data are designed by a Westphalian world to assess the impact of border fortification on post-Westphalian actors:[31] the deterrence effect and the speed-bump effect of a border fence are not easily measured in the light of events that have not taken place.[32] Since those fences do not aim at stopping a hostile army at the border, researchers have to assume that the flows that they are designed to prevent may take other forms, meaning that any measurement will need to take a wider angle.[33]

The example of Israel's border fence is emblematic of that paradox. Israel has indeed legitimized the construction of the West Bank border fence based on security arguments and the rise of Palestinian suicide attacks in Israel and has since claimed that it had led to a substantial decrease of terrorist attacks on its territory.[34] However, this claim has been disputed since the reduction of the number of events is not fully correlated to the completion of the wall, and would need to take into account the massive impact of Operation Defensive Shield conducted by Israel in the West Bank. A more thorough study of the border shows that it is paradoxically still porous: the border fence was, therefore, a meager factor in the securitization of post–Second Intifada Israel.[35] Moreover, since it does not solve the root problem, the erection of the wall has simply altered flows, delayed any peace process, and led to new terrorist strategies—as the kidnapping of Israeli soldier Gilat Shalit via tunnels has shown.[36]

In the United States, for instance, "the justifications for the barrier are about external terrorist and immigrant threats; nevertheless the symbolic consequences are internal and affect the territorial and national imaginaries of the United States."[37] As early as 2014, Senate candidates Tom Cotton (Arkansas) and Scott Brown (New Hampshire) described a direct link between the porosity of the border, drug cartels, and ISIS, a link that has been reasserted by US president Donald Trump. If the demographics of people caught at the border have changed, nothing has linked terrorism to the southern border. In a sense,

the northern border could be identified in those terms (terrorism) due to the millennium bomber Ahmed Ressam: it has, however, never directly triggered a lasting fencing discourse, showing, therefore, that linking the southern border to terrorism is much more a construction than an existing and documented threat.[38]

Among those democratic governments that have decided to fortify their borders, India has chosen to secure a wall along its border with Bangladesh, establishing links between issues such as migration (demographic pressure from an overpopulated and poor neighbor), trafficking (smuggling), and political conflicts (based on the Bharatiya Janata Party's anti-Islamic agenda).[39] However, the barrier has not solved any of those issues, since neither the flow of migrants nor xenophobia in reaction to Muslim militants on the other side of the border has been curbed. Hiding behind one meter of concrete plus five meters of barbwire fence lies a worsening problem due to climate change and its effects on a low-lying Bangladesh: "as climate change accelerates, the fence will only increase cross-border tension."[40] A similar conclusion can be drawn along the Kenyan border, where "existing evidence suggests that the proposed wall, if completed, will exacerbate an already volatile situation by reigniting border disputes not only between Somalia and Kenya; but could also provide precedent for other states in the region to raise claims over borders that were drawn by colonial powers."[41]

There is undeniably a counterproductive effect that has also been identified in different terms along other borders, when the erection of border walls leads to an acceleration of immigration, to the end of cyclical migration flows (and hence to the settlement of once seasonal migrants), to the increase of violence on borderlands, or to even more fencing without any improvement in "achieving the ultimate objective of thwarting crossings."[42] Although some advocates of border walls tend to see them as impervious to any crossing, others like the Kenyan Interior Ministry spokesman Mwenda Njoka see them as a means "to limit illegal crossing and monitor movement of people."[43]

The Recurrence of Circumvention Strategies

A border wall is indeed not enough to seal a territory. As argued by Polly Pallister-Wilkins, border walls need to be assessed in terms of networks since border porosity is persistent beyond the fortification of the demarcation line.[44] As part of a wider and necessary "dispositive," a multilayered system linking visas, policies, army deployments, and technologies, the border wall may then reach a point of "sufficient efficiency."[45] As the 2016 Hungarian example has shown, a police or a military presence is necessary to complement the fortification since the border wall per se is not sufficient to circumvent undesirable

flows—it is actually the justification used by self-deployed militias along the Hungarian border. Border walls are always armored, cemented, monitored, filmed, and patrolled. In this new environment, walls, obstacles, razor blades, sensors, helicopters, barriers, and drones have become the accessories of hard borders in an open world, complemented and reinforced most of the time by policies oriented toward the externalization of the border and the hardening of visa and asylum policies.[46]

Even so, the border wall triggers quasi-automatically a circumvention reflex where flows, just like water, will run elsewhere: around, under, or above the barrier. Rightly enough, data from humanitarian and government agencies show that walls are not impermeable: "The drive for control does not succeed in producing walls and fortresses; it only creates control *points*, disconnected control *nodes* that owe their effectiveness to their symbolic power (deterrence, persuading people to stay put, etc.)."[47] And that symbolic effect does not hold much when migrants fear so much that nothing deters them anymore, not even the dangerousness of the sea or a wall, or when the economic disequilibrium between the two neighboring countries works as a magnet for the underground economy.[48]

Therefore, every border wall has experienced circumvention strategies. They can be as basic as corruption schemes among law enforcement officials. As the US border has more and more been thought of in terms of national security, the number of Border Patrol employees has soared. Hence, there is a heightened risk of lessening the background checks, as a US Department of Homeland Security report stated: "Every border agency in the world is vulnerable to bribery and corruption; arguably more so than any other type of law enforcement agency, federal, state or local, and CBP is no exception. . . . Moreover, there is data indicating that arrests for corruption of CBP personnel far exceed, on a per capita basis, such arrests at other federal law enforcement agencies."[49] Circumvention strategies range from resistance through art, border projects, and civil disobedience to the digging of tunnels and other smuggling stratagems (drones, submarines, hiding strategies). They will also lead to redrawn migration routes, showing that border walls per se do not deter crossings. Ramps topping the US border wall (like in Yuma), the ever resurrecting tunnels under the Gaza-Egypt border wall (leading to more underground construction by Israel over the summer of 2016), piles of ladders accumulating along the Texas border and collected by activists and artists, and crowds of migrants jumping the Spanish fences at Ceuta and Melilla are the most visible manifestations of circumventions strategies. As smugglers find new ways around the walls, governments adjust to their smuggling schemes. However "monitoring mechanisms are heavy, sophisticated and hence less flexible than the smugglers technics," always reacting rather than preventing.[50] Finally, border walls will not prevent individuals from legally entering the country and overstaying their visa.

An Increased Danger of the Border

In a sense, borderlands play the same role in controlling flows that a Louisiana mangrove will in case of a hurricane: they absorb, diffuse, channel, and filter flows. However, a wall plays the role of a dam or a levee that alters ecosystems and may at one point give way to a flash flood and in any case will not prevent the hurricane from hitting ground and may worsen it. Hence, unable to stop the flow of people and goods, walls divert it. This has an immediate impact on migrants and the environment.[51] Precisely by virtue of their border location, walls induce a logic of transgression.[52] According to Miguel Vallina, US Border Patrol chief in San Diego, "The more difficult the crossing, the better the business for smugglers." Border Patrol agents patrolling the San Diego–Tijuana border admit that no razor wire fence ever prevents smugglers from cutting through.[53] The fact is that walls fan the underground economy and feed shadow flows, which are more difficult to monitor and police.[54] This can be seen through the relieving impact of the tunnel network on the Gaza blockade. It has been reported that "at their peak, the tunnels reportedly funnelled some $700 million into Gaza's economy and provided employment for as many as 7,000 people," while figures collected by the UN from local shopkeepers show that "800,000 liters of fuel, 3,000 tons of gravel, 500 tons of steel rods and 3,000 tons of cement" where going through each day.[55] Israeli bulldozers and 1.2 billion shekels have been invested since 2014 to "thwart the threat," in vain since IDF was back to its underground work over the summer of 2016.[56]

Circumvention strategies generate a sense of insecurity on both sides of the border and ultimately lead to the redefinition of the social structure of the border. In turn, the border, undermined by mafias, cartels, and smuggling strategies, becomes even more violent.[57] Since it is more violent, it often gets more militarized, forcing borderlands and border crossers into a never-ending spiral. Border walls' tangible impact on local societies, economies, and ecosystems is much more than a matter of representation: the wall is a constraint on border zones. And there are concrete consequences since border barriers and walls affect local societies and therefore local economies and environments.

Building a border wall/fence creates an illusion that one can protect oneself against an elusive/mobile/foreign Other. Building more border walls leads the world to admit this trend as a new norm defining international relations, what Novosseloff calls "a new walled order."[58] For instance, U Zaw Zaw Myint, a Union Solidarity and Development Party representative in Burma, clearly defended a project of a "a brick wall of 30-40 feet high and five to ten feet thick fence to separate Burma from Bangladesh . . . in the wake of Donald Trump's campaign promise to make a wall along the US-Mexico border."[59] Thus, this illusion relies on the fact that "border controls are seen through the lens of an (in)securitization process whereby mobility becomes a danger."[60] The price of

that "sense of security," when two interdependent economies have to deal at once with a wall and the destruction of social structures in border areas, can be high.[61] Mobility is an asset that thrives in borderland economics, but walling a border will ineluctably impede legal economic flows while reinforcing irregular ones, which is the opposite of what the border fence was meant to do in the first place.

NOTES

1. Bertrand Badie, *La Fin des territoires: Essai sur le désordre international et sur l'utilité sociale du respect* (Paris: Fayard, 2000); Kenichi Ohmae, *The Borderless World: Power and Strategy in the Interlinked Economy* (New York: Harper, 1990); Anne-Laure Amilhat Szary, *Qu'est-ce qu'une frontière aujourd'hui?* (Paris: Presses Universitaires de France, 2015).

2. Didier Weber, "Ces Murs qui divisent," *Le Point* 1843 Monde, 10 January 2008, 48.

3. This research is funded by the Social Sciences and Humanities Research Council of Canada.

4. Semantically we have chosen "border wall" as a generic wording, accordingly to the International Court of Justice advisory opinion of July 9, 2004. Hence in this chapter "border walls" and "border fences" are used interchangeably. Albert Lévy, "Des Murs, remparts contre la réalité," *Libération*, October 20, 2005, 40; Élisabeth Vallet, "Il y a une mondialisation du marché de la frontière fortifiée. Beau paradoxe, non?," *Courrier international*, November 7, 2014.

5. Joan Debardeleben, *Soft or Hard Borders? Managing the Divide in an Enlarged Europe* (Aldershot: Ashgate, 2005), 11, 23.

6. Peter Andreas, "Redrawing the Line: Borders and Security in the Twenty-First Century," *International Security* 28, no. 2 (2003): 82.

7. David Newman, "The Renaissance of a Border That Never Died: The Green Line between Israel and the West Bank," in *Borderlines and Borderlands: Political Oddities at the Edge of the Nation-State*, ed. Alexander Diener and Joshua Hagen (Lanham, Md.: Rowman & Littlefield, 2010), 87–106. See Élisabeth Vallet and Charles-Philippe David, "Do Good Fences Make Good Neighbours? States, Couples and Walls in International Relations," in *State Couples in International Relations*, ed. Brigitte Vassort-Rousset (London: Palgrave, 2014).

8. See Reece Jones, *Border Walls: Security and the War on Terror in the United States, India and Israel* (London: Zed Books, 2012), as well as Marcello Di Cintio, *Walls: Travels along the Barricades* (Fredericton, Canada: Goose Lane Editions, 2012).

9. Alexandra Novosseloff and Franck Neisse, *Des Murs entre les hommes* (Paris: La Documentation française, 2007), 16; Brigitte Vassort-Rousset, "Couples interétatiques: L'Intérêt national revisité," *SDEDSI, Arès* 22-2, no. 57 (2006); Vallet and David, "Do Good Fences Make Good Neighbors?"

10. See Kenneth Waltz, "Structural Realism after the Cold War," *International Security* 25, no. 1 (2000): 30; Barry Buzan and Eric Herring, *The Arms Dynamic in World Politics* (Boulder, Colo.: Lynne Rienner, 1998). See also Évelyne Ritaine, "La Barrière et le Checkpoint: Mise en Politique de l'Asymétrie," *Cultures & Conflits* 73 (2009): 13–33.

11. Didier Bigo, "Sécurité et immigration: Vers une Gouvernementalité par l'inquiétude," *Cultures & Conflits* (1998): 31–32.

12. See Jones, *Border Walls*; Michel Foucher, *L'Obsession des frontières* (Paris: Librairie Académique Perrin, 2007); Foucher, "Le Retour des frontières," *Géopolitique* 104 (2009): 3–9; Évelyne Ritaine and Élisabeth Vallet, "Les Démocraties emmurées," *Le devoir* 17 (2001).

13. See Xavier Ferrer-Gallardo, "The Spanish-Moroccan Border Complex: Processes of Geopolitical, Functional and Symbolic Rebordering," *Political Geography* 27 (2008): 301–21; Shuki Sadeh, "A Fence, but Not a Solution on the Israel-Egypt Border," *Haaretz*, November 25, 2011; Harriet Sherwood, "Israel Extends New Border Fence but Critics Say It Is a Sign of Weakness," *Guardian*, March 27, 2012; Ben Harman, "PM: Security Fence to Be Built along Jordan Border," *Jerusalem Post*, January 1, 2012; Dana Khraiche, "Israel to Build Wall along Blue Line: Reports," *Daily Star* (Beirut), January 3, 2012.

14. Analyses of situations in walled and fenced borderlands have shown that border fences do not solve the very origins of the issue at stake, whether a sociopolitical situation triggering a terrorist wave (see Doaa' Elnakhala, "When Fencing Is Not Protecting: The Case of Israel-Gaza," in *Mobility and Migration Choices: Threshold to Crossing Borders*, ed. Martin Van Der Velde and Ton Van Naerssen [London: Ashgate 2015], 137–38) or a conflict zone that triggers mass migrations (Annastiina Kallius, Daniel Monterescu, and Prem Kumar Rajaram, "Immobilizing Mobility: Border Ethnography, Illiberal Democracy, and the Politics of the 'Refugee Crisis' in Hungary," *American Ethnologist* 43, no. 1 [2016]: 25–37). As the evolution of migration policies in Europe has shown, fences hide the reality of deeper crises rather than solving them. See Philippe Fargues and Sara Bonfanti, "When the Best Option Is a Leaky Boat: Why Migrants Risk Their Lives Crossing the Mediterranean and What Europe Is Doing about It" (Robert Schuman Centre for Advanced Studies, Migration Policy Centre, Policy Brief No. 5, 2014).

15. Ken Stier, "Underground Threat: Tunnels Pose Trouble from Mexico to Middle East," *Time*, May 2, 2009.

16. Philippe Rekacewicz, "Vers la Sanctuarisation des pays riches: Un Monde interdit," in *Frontières, migrants et réfugiés*, Cartographier le présent, Études cartographiques, December 2009, 12; Wendy Brown, *Walled States, Waning Sovereignty* (Brooklyn: Zone Books, 2010), 36; Blas Nunez-Neto and Stephen Vina, "Border Security: Barriers along the U.S. International Border" (CRS Research Report, September 21, 2006), 26.

17. Reece Jones, "The Border Enclaves of India and Bangladesh: The Forgotten Lands," in Diener and Hagen, *Borderlines and Borderlands*, 15–32; Élisabeth Vallet and Charles-Philippe David, "Introduction: Du Retour des murs frontaliers en relations internationales," *Etudes internationals* 43, no. 1 (March 2012).

18. Élisabeth Vallet and Charles-Philippe David, eds., "Walls and Fences in International Relations," *Journal of Borderland Studies* 27 (September 2012).

19. Since some walls have more than one justification, these stats sum to more than 100 percent.

20. Michiel Baud and Willem van Schendel, "Toward a Comparative History of Borderlands," *Journal of World History* 8, no. 2 (1997): 212.

21. Paul Ganster and David Lorey, *The U.S.-Mexican Border into the Twenty-First Century* (Lanham, Md.: Rowman & Littlefield, 2008), 175–87.

22. There is actually a very informative literature review on bureaucratic entrepreneurs in Charles-Philippe David, "How Do Entrepreneurs Make National Security Pol-

icy? A Case Study of the G. W. Bush Administration," in *Entrepreneurship in the Polis*, ed. Evangelia Petridou and Lee Miles (Aldershot: Ashgate, 2015), 151–70.

23. Didier Bigo, "Reflections on Immigration Controls and Free Movement in Europe," in *Constructing and Imagining Labour Migration: Perspectives of Control from Five Continents*, ed. Sandra Mantu (London: Routledge, 2016), 298, 302.

24. Stephanie Latte Abdallah and Cedric Parizot, *Israelis and Palestinians in the Shadows of the Wall: Spaces of Separation and Occupation* (Aldershot: Ashgate, 2015).

25. Federico Giulio Sicurella, "The Language of Walls along the Balkan Route," *Journal of Immigrant & Refugee Studies* 16 (2018): 57–75.

26. David B. Carter and Paul Poast, "Why Do States Build Walls? Political Economy, Security, and Border Stability," *Journal of Conflict Resolution* 61 (2017): 239–70; Elisabeth Vallet, ed., *Borders, Fences, and Walls: State of Insecurity?* (Farnham: Ashgate, 2014).

27. Cédric Parizot, "Les Murs en Méditerranée," *AntiAtlas des frontières*, December 2015, 5.

28. Bradley Cranwell, "An Illusion of Security? Securitization of the Border and Constructing Border Walls," *Foreign Affairs* 82, no. 2 (2003): 106–19; David Hare, "Wall: A Monologue," *New York Review of Books*, April 30, 2009, 8–10.

29. Henk van Houtum, "Remapping Borders," in *A Companion to Border Studies*, ed. Thomas Wilson and Hastings Donnan (London: Wiley, 2013), 412; Mike Davis and Justin Akers Chacón, *No One Is Illegal: Fighting Racism and State Violence on the U.S.-Mexico Border* (Chicago: Haymarket Books, 2006), 206.

30. Foucher, "Le Retour des frontières," 3; Reece Jones, "Why Build a Border Wall?," *NACLA Report on the Americas* 45 (2012): 70–72.

31. Brown, *Walled States*, 21.

32. As the GAO explains it in a recent report: GAO, "Southwest Border Security: Additional Actions Needed to Better Assess Fencing's Contributions to Operations and Provide Guidance for Identifying Capability Gaps" (Report GAO-17-331, February 16, 2017), 20–27.

33. And that wider angle is generally omitted in official and governmental literature on the efficiency of a border fence. Adopting a narrower angle (both spatially and chronologically) may lead to the assertion of causal linkages between the construction of fences and some efficiency index. Reducing the variables may offer simpler justifications for border fencing; it will however omit the adaptability of most border actors.

34. Isabel Kershner, *Barrier: The Seam of the Israeli-Palestinian Conflict* (New York: Palgrave Macmillan, 2005), 16. As shown on the official pages of the Israeli government, for instance, http://www.mfa.gov.il/mfa/foreignpolicy/terrorism/palestinian/pages/saving%20lives-%20israel-s%20security%20fence.aspx.

35. Damien Simonneau, "'Il nous faut une barrière!' Sociologie politique des mobilisations pro-barrière en Israël et en Arizona (États-Unis)" (PhD diss., Institut d'études politiques de Bordeaux, 2015), 36; Hillel Frisch, "Fence or Offense: Testing the Effectiveness of 'the Fence' in Judea and Samaria," *Democracy and Security* 3 (2007): 17.

36. Serghei Golunov, "Border Fences in the Globalizing World: Beyond Traditional Geopolitics and Post-positivist Approaches," in Vallet, *Borders, Fences and Walls*, 120.

37. Jones, *Border Walls*, 53.

38. Interview A, 2016.

39. Interview A, 2016.

40. Bidisha Banerjee, "The Great Wall of India," *Slate*, December 20, 2010.

41. Brendon Cannon, "Terrorists, Geopolitics and Kenya's Proposed Border Wall with Somalia," *Journal of Terrorism Research* 7, no. 2 (2016): 23.

42. Golunov, "Border Fences." See also Reece Jones, *Violent Borders: Refugees and the Right to Move* (London: Verso, 2016).

43. IRIN, "Kenya: Anti-terror Border Wall Sparks Heated Debate, Humanitarian News and Analysis" (April 17, 2015).

44. Polly Pallister-Wilkins, "Bridging the Divide: Middle Eastern Walls and Fences and the Spatial Governance of Problem Populations," *Geopolitics* 20, no. 2 (2015): 438–59.

45. Michel Foucault, "La Société disciplinaire en crise," in *Dits et écrits (1954–1988)*, vol. 2, *1976–1988* (Paris: Gallimard, 2001), 299. The "dispositif" as Foucault spells it in French is the network that links all those elements together in a more refined objective.

46. Amilhat Szary, "Qu'est-ce qu'une frontière aujourd'hui."

47. Christophe Courau, "Ces Murs qui ont divisé les hommes: L'Histoire montre que toutes les murailles finissent par tomber," *Historia* 693 (2004): 12–16; Beatriz Lecumberri, "Los Muros, una Estrategia Geopolítica que Alimenta la Violencia—Entrevista: Yves Lacoste, Geopolítico Frances," *La Republica*, October 28, 2006. Some observers have challenged the proposition that walls are porous. See, for example, Paul Staniland, "Defeating Transnational Insurgencies: The Best Offense Is a Good Fence," *Washington Quarterly* 29 (2005–6): 31–34; Didier Bigo, "Editorial. Circulation et archipels de l'exception," *Cultures & Conflits* 68 (2007).

48. In that sense, see Philippe Rekacewicz's maps on Visions Carto: http://visionscarto.net/the-refugees-crescent-in-2014.

49. Homeland Security Advisory Council, "Interim Report of the CPB Integrity Advisory Panel" (June 29, 2015), 5–6.

50. Parizot, "Les Murs en Méditerranée," 5.

51. John Linnell, Arie Trouwborst, Luigi Boitani, Petra Kaczensky, Djuro Huber, Slaven Reljic, Josip Kusak, Aleksandra Majic, Tomaz Skrbinsek, Hubert Potocnik, Matt W. Hayward, E. J. Milner-Gulland, Bayarbaatar Buuveibaatar, Kirk A. Olson, Lkhagvasuren Badamjav, Richard Bischof, Steffen Zuther, and Urs Breitenmoser, "Border Security Fencing and Wildlife: The End of the Transboundary Paradigm in Eurasia?," *PLOS Biology* 14, no. 6 (July 2016).

52. Karine Bennafla and Michel Peraldi, "Introduction: Frontières et logiques de passage: L'Ordinaire des transgressions," *Cultures & Conflits* 72 (2008).

53. As quoted in Peter Andreas and Timothy Snyder, *The Wall around the West: State Borders and Immigration Controls in North America and Europe* (Lanham, Md.: Rowman & Littlefield, 2000), 97.

54. Blas Nuñez-Neto and Stephen Viña, "Border Security: Barriers along the U.S. International Border" (CRS Report for Congress, RL33659, September 21, 2006).

55. Nicolas Pelham, "Gaza's Tunnel Complex, Middle East Research and Information Project" (MER261, 2016).

56. Amos Harel, "While Netanyahu Is Busy Bragging to the Press, Hamas Is Building Army Outposts," *Haaretz*, July 30, 2016.

57. Jones, *Violent Borders*; Bennafla and Peraldi, "Introduction."

58. Alexandra Novosseloff, "A New Walled Order," *Getty Museum Blog*, November 12, 2014. See also Alexander Wendt, "Constructing International Politics," *International Security* 20, no. 1 (1995): 71–81.

59. "Burma Opposition Party Proposes Trump-Style Bangladesh Border Wall," *Pakistan Defence*, December 29, 2016.

60. Clebel D'Appollonia, *Frontiers of Fear: Immigration and Insecurity in the United States and Europe* (Ithaca, N.Y.: Cornell University Press, 2012).

61. On the impact of the construction and maintenance of border structures on public finances and the border security market, see Elisabeth Vallet and Charles-Philippe David, "Walls of Money: Securitization of Border Discourse and Militarization of Markets," in Vallet, *Borders, Fences, and Walls*, 143–56.

CHAPTER 10

Open Internal Borders and Closed External Borders in the EU

SAID SADDIKI AND MERYEM LAKHDAR

Since the first signing of the Schengen Agreement, which allowed free movement for European Union (EU) citizens within the territory of the member states, in 1985, the control of external EU borders has not been a national matter of each member state independently but rather a common European issue. Territorially, on the basis of the Schengen Agreement, the EU external border refers to the frontiers between member and nonmember states. But strategically, according to new European policies concerning the externalization of EU migration management, common EU borders cannot be considered as just a geographical issue. Rather, they are "located where the management strategy begins."[1]

Since the 1957 Treaty of Rome, which gave birth to the European Economic Community (ECC, later renamed the EU), the free movement of people and goods has been one of the major founding principles of the European integration process. Initially, the principle of free movement had a purely economic meaning aimed at facilitating the movement of workers in the EU, then known as the European Community (EC). In 1990, the principle expanded to include all EU citizens (and non-EU citizens legally entering the Schengen area) to move freely between European countries, whose citizens also became citizens of the EU. The EU is now facing a dilemma arising from the dichotomy between internal and external borders.

The management of EU borders has witnessed major changes due to both the requirements of the internal integration process and the pressure of irregular migration flows. A significant development for EU border management is the extension of immigration control beyond European territorial borders. This externalization of migration control was implemented through different mechanisms: the outsourcing of migration control since it is managed at every step of the migration journey and no longer takes place only at the EU territorial borders; cooperation with sending and transit countries by different mechanisms, including readmission agreements; and the strengthening of EU

external borders by sophisticated systems such as the European Agency for the Management of Operational Cooperation at the External Borders (Frontex).

This chapter examines the development of the EU border control management system, shows how and to what extent contemporary migratory flows may challenge the EU open-border policy, and tries to foresee the future of Europe's external borders.

An Integrated Europe versus the Return of the Nation-State

The modern nation-state emerged in Europe over the course of the seventeenth century, specifically after the 1648 Peace of Westphalia, which ended the Thirty Years' War in Europe. Since then, the notion of the nation-state has spread around the world and become the universal model of social and political organization.[2] However, in recent decades, the nation-state has been in question as a consequence of many factors, especially the regional integration process and irregular migration. Some scholars, focusing on new transnational interactions and irregular cross-border flows that challenge contemporary nation-states, declare the "decline," "eclipse," and "end" of the nation-state and announce a transformation of the global system to "a borderless world" and "a world without sovereignty."[3] In contrast, others focus on the ability of the nation-state to survive despite the challenges that have been encountered. Moreover, they argue that globalization and other transnational interactions, including migration, do not undermine the nation-state but reflect a transformation of the state's functions and roles. Kenneth Waltz argues that "the twentieth century was the century of the nation-state. The twenty-first will be too."[4]

There are two contradictory trends in the EU. On the one hand, the dilution of national sovereignty and the removal of internal territorial borders have signaled the growth of a cohesive EU. On the other, there has been an expansion of EU sovereignty over its external borders and more recently a nationalist push to reinstate nation-state sovereignty.[5] While the strengthening of the EU asylum and immigration policy's communalization is based on a greater trust in the European instruments, each country tries to convince the public that it is still controlling its migration policy.[6]

After the fall of the Berlin Wall in 1989, European countries opened their borders to the movement of goods, capital, and, to a lesser extent, people between the East and the West. A journey toward harmonization started with the creation of the single market in 1993 (among the Benelux countries, Italy, France, and Germany) and the establishment of the free movement across the borders of member states. In 1993, with the entry into force of the Maastricht Treaty, the EU came into being and started its turbulent journey. In the 2010s, external security became increasingly important. Meanwhile, relations between the EU

and various neighbors on its southern and eastern borders became more complex. Divergences between EU policy and the national policy of each member state on the management of internal and external borders posed a number of problems concerning the relationship between borders and citizenship, cultural identities, the doctrine of territorial sovereignty, the importance of micro-states, and cooperation on controlling and monitoring populations.

Transnational migration is one of the greatest challenges that the European nation-state has faced since the end of the Cold War. Based on their national sovereignty, states claim that they have the power to decide whether a migrant can enter the territory or not. Although the interaction between migration flows and the contemporary state has many aspects (juridical, legislative, political, security), sovereignty and citizenship remain the two fundamental characteristics of modern nation-states that have been most challenged by the integration process, migration, and other transnational flows. The impact of migration on sovereignty appears clearly in the case of irregular migrants because their mere existence undermines national sovereignty, at least in its traditional sense.[7]

The increasing impact of transnational migration has led to the emergence of countermovements demanding the renationalization of the state. Embodied in the demand for limitations on migration, these movements go beyond slogans of right-wing parties and have had significant effects in recent years, leading to important changes in migration policy in receiving states. Such movements, which tend to "reterritorialize" the state, are one of the major political counter-effects of globalization and the changing role of the modern state.

The significant development in this trend, as Catherine Dauvergne argues, is "the shift from associating sovereignty with territory to associating it with population," which means that "sovereignty is in the people rather than the place."[8] This transformation of national sovereignty does not indicate that transnational migration is necessarily undermining the ground of sovereignty. Instead, sovereignty and the nation-state itself are developing new meanings associated with emergent and extensive transnational interactions.

The structure of the EU reflects economic and political liberalization at the regional, national, and supranational levels. That is, a multiplicity of national competences are delegated to the regional level, while the national ones should be consistent with the supranational level. This development has affected the nation-state, which is today at the crossroads between the national and the European levels. Citizenship, combined with both exclusive territoriality and sovereignty, "marks the specificity of the modern state."[9] Unlike what Jean Monnet once claimed, that "crises are the great unifier," the actual situation in Europe shows that the nation-state is reemerging in the midst of the turmoil facing the EU and striving to regain its past glory.[10] In the aftermath of the Maastricht Treaty, citizens were given the important role of participating in European elections as a way to give birth to a shared sentiment of European identity, but this move has

been hampered by the serious challenges that the EU is facing today.[11] The economic and social challenges faced by the welfare state in the highly developed countries, such as increases in unemployment and income disparity, can be seen as indicators of a change in the entitlements of citizens.[12] Furthermore, crippling European debts, the rise of terrorism, and increases in the number of refugees and irregular migrants have revived national sentiment and invoked the traditional notion of the nation-state. The Brexit vote is a clear example of this development. The solidarity and the sense of belonging that are still strong within each nation are almost missing between the populations of EU member states.

The Externalization of EU Border Control

Even while the EU internal borders were removed over the past two decades, we witnessed a growth in mechanisms to extend the enforcement of the external borders and externalize migration control. For the first time, following the 1999 Treaty of Amsterdam, the EU established an authority to deal with migration and asylum issues. That same year the European Council declared in Tampere, Finland, the need for the development of a common EU asylum and migration policy and the establishment of strong cooperation with countries of origin to achieve an approximation of national legislation on the conditions for admission and residence of third-country nationals.[13] The externalization of migration control entered a new phase with the Dublin system, which aimed at sharing responsibilities in the fight against irregular migration with third countries and establishing the member state responsible for the examination of the asylum application. Thus, some countries have become "border guards" for Europe either because they aim to join the EU, like Ukraine, or simply because they are closely linked to the EU with extensive partnership and cooperation agreements, like Turkey and Morocco.

The externalization of migration policies has become a common practice in Europe in order to effectively control migration flows, as well as granting countries of origin some necessary means to prevent irregular migration closer to the source. The EU has established compensatory measures for third countries cooperating effectively to address the root causes of irregular migration. Compensatory measures that can enhance partnerships with countries of origin and transit in the field of migration policy include intensifying economic and financial cooperation, establishing a more generous visa policy, and increasing quotas for migrant workers.[14] In contrast, there also measures against noncooperative countries. For example, in 2002 the Seville program, in addition encouraging the externalization process, made several threats against third countries refusing to cooperate with the EU in combating irregular immigration, including the systematic assessment of relations with them.[15]

The framework of the external dimension of EU immigration policy is marked by different mechanisms. Some agreements with third parties are devoted to cooperation on irregular migration, including the Cotonou Agreement of June 2000 between the EU and the African, Caribbean, and Pacific Group of States (ACP countries) and the action plans concluded with other countries (Georgia, Ukraine, Morocco, Egypt, Azerbaijan, Jordan, Israel, Moldovia, Lebanon, Palestine, Tunisia, and Armenia).

The formulation of a common EU policy on migration and external border control was a top priority for the 2007 Lisbon Treaty.[16] Following this treaty, the externalization process took an important place in the EU agenda and engaged third countries in alleviating migratory pressure on EU countries and controlling entry via the external EU borders. The EU-Turkey Joint Action Plan of November 2015 and EU-Turkey joint statement of March 2016 are two clear examples of the new European policy in the externalization migration control. The two deals rely on a "one for one" mechanism whereby every new irregular migrant crossing from Turkey to Greece will be returned and for every Syrian refugee returned to Turkey from the Greek islands, another Syrian will be resettled in the EU. This partnership with Turkey has become the cornerstone of the EU refugee management system and has turned Turkey into a key partner in the management of irregular migration more than ever.

In North Africa, border management has been at the heart of European-Moroccan cooperation since 1996. This cooperation takes place at two levels: multilateral, with the EU as a regional organization, and bilateral with each concerned state, especially Spain. The cooperation between the two countries started in 1996 when Morocco agreed to readmit all its citizens who irregularly entered Spanish territory, but not sub-Saharan migrants.[17] Since 2004, the two countries have launched joint patrols in the Mediterranean to intercept migrants' boats.[18]

The EU created Frontex in 2004 to reinforce cooperation between national border authorities and streamline cooperation with authorities of third countries in the framework of working arrangements in order to intervene in the maritime borders of these countries. Accordingly, the agency can coordinate activities for member states and third countries at the external borders, including joint operations with neighboring third countries.[19] This is particularly the case for the joint operation Hera, which aims at reinforcing the early detection of migrants at sea, especially in the waters close to Mauritania and Senegal. Other agencies were created to secure EU external borders and reinforce the fight against irregular entrances, such as European Dactyloscopy (Eurodac), the European Police Office (Europol), the EU Judicial Cooperation Unit (Eurojust), the Schengen Information System (SIS), and the Visa Information System (VIS).

Readmission agreements are one of the main forms of externalization and have become an important part of the EU strategy for combating irregular migration. At the Tampere European Summit in October 1999 the European Council

concluded readmission agreements between the EU and third-country partners. Readmission clauses are included in many agreements, including the Cotonou Agreement, which was concluded between the EU and seventy-eight ACP countries. Following the Tampere conclusions, the European Council asked the European Commission to draft negotiating mandates for readmission agreements with other states, including Morocco, Ukraine, Sri Lanka, Algeria, and Turkey. For effective engagement of third countries in the EU efforts, the 2002 Seville Summit stated that any future association agreement between the EU and any country "should include a clause on joint management of migration flows and on compulsory readmission in the event of illegal immigration."[20]

Additionally, the European Parliament has adopted several directives on the return and readmission of irregular migrants, which set out common standards and procedures for returning irregularly staying third-country nationals and urged member states to take measures to promote "voluntary return" instead of "forced return," in accordance with international and European human rights as well as refugee law.[21]

In summary, the externalization of migration policy not only has been a key element in the relationship of the EU with its partners but also has gradually taken an institutional dimension. However, the effectiveness of this multifaceted strategy remains controversial since it has failed to prevent thousands of irregular migrants and asylum seekers from entering Europe.

Conclusion

One of the main challenges to EU border management is the lack of solidarity between member states in certain cases, which sometimes hampers the coordination of efforts and the coherence of national policies. The lack of solidarity is reflected in the fact that EU rules do not provide automatic recognition of decisions granting international protection.[22] Another challenge is the lack of equity in sharing the burden between the member states because they do not fully comply with the common strategy and do not share the same number of refugees. Malta, Spain, and Greece have witnessed unprecedented maritime migratory flows and have called for the involvement of other member states, which have refused to help them financially to counter irregular migration, even though all member states agreed on the principle of burden sharing and solidarity.

It is worth mentioning that an effective management of EU external borders cannot be achieved without negotiations between member states and operational cooperation with origin and transit countries. Such management requires high-technology resources, substantial funding, and well-trained and qualified personnel. The respect for international norms of human rights, migration, and asylum should be the framework of such a management system.

In terms of integration and free movement of citizens, borders have become more a sieve than a barrier protecting the territory and the people within. The dichotomy between free movement (open internal borders) and border management (closed external borders) propels the idea of the creation of selective borders opened only for some categories of people. Today the EU faces a real dilemma between the ambitions of the objectives of the area of freedom, security, and justice (AFSJ) and the reality reflected in the rise of social disparities that are caused by selection among European and non-European citizens. The open internal borders between member states are predicated on the closed and increasingly militarized external borders of the EU.

NOTES

1. Pablo Ceriani et al., "Report on the Situation on the Euro-Mediterranean Borders: From the Point of View of the Respect of Human Rights" (Work package 9, University of Barcelona, April 27, 2009), 2.

2. Said Saddiki, "Does Transnational Immigration Threaten European Nation-State?" (paper, Euro-African Relations and the Problematic of Maghreb and Sub-Saharan Immigration conference, Oujda, Morocco, November 9–10, 2006).

3. See Kenichi Ohmae, *End of the Nation State: The Rise of Regional Economies* (New York: Free Press, 1995); Ohmae, *The Borderless World: Power and Strategy in the Interlinked Economy* (New York: Harper, 1990); Jean-Marie Guehenno, *The End of the Nation-State*, trans. Victoria Elliott (Minneapolis: University of Minnesota Press, 1996); Susan Strange, *Retreat of the State: The Diffusion of Power in the World Economy* (Cambridge: Cambridge University Press, 1999); Strange, "The Erosion of the State?," *Current History* 96 (November 1997): 365–69; Peter Evans, "The Eclipse of the State? Reflections on Stateness in the Era of Globalization," *World Politics* 50 (October 1997): 62–87; Bertrand Badie, *La Fin des territoires: Essai sur le désordre international et sur l'utilité sociale du respect* (Paris: Fayad, 1995); Bertrand Badie, *Un Monde sans souveraineté: Les Etats entre ruse et responsabilité* (Paris: Fayard, 1999).

4. Kenneth Waltz, "Globalization and Governance," *Political Science and Politics* 32, no. 4 (1999): 696.

5. Catherine Wihtol de Wenden, "L'Europe, un continent d'immigration malgré lui," *Union Européenne—Voisinage* 15 (2008): 59–71.

6. De Wenden, "L'Europe."

7. Saskia Sassen, *Losing Control? Sovereignty in the Age of Globalization* (New York: Columbia University Press, 1996), 64.

8. Catherine Dauvergne, "Sovereignty, Migration, and the Law of Rule in Global Times," *Modern Law Review* 67, no. 4 (2004): 595.

9. Sassen, *Losing Control?*, 34.

10. Jean Monnet was a French political economist and diplomat who initiated comprehensive economic planning in Western Europe after World War II. From 1952 to 1955 Monnet served as the first president of the ECSC's High Authority. The ECSC inspired the creation of the European Economic Community, or Common Market, in 1957.

11. Larry Siedentop, *Democracy in Europe* (London: Penguin, 2000).

12. Sassen, *Losing Control?*, 39.

13. The Presidency Conclusions of the Tampere European Summit in October 1999.

14. Commission of the European Communities, "Communication from the Commission of the European Parliament and the Council in View of the European Council of Thessaloniki" (Brussels, June 3, 2003), 14.

15. Council of the European Union, Presidency Conclusions, European Summit of Seville, June 21–22, 2002, conclusions 34–36.

16. Article 61 of the Treaty of Lisbon Amending the Treaty of European Union and the Treaty Establishing the European Community, *Official Journal of the European Union*, 2007/C 306/01, December 17, 2007.

17. Said Saddiki, "Les Clôtures de Ceuta et de Melilla: Une Frontière Européenne multidimensionnelle," *Études internationales* 43, no. 1 (2012): 54–55.

18. Sarah Wolff, "Border Management in the Mediterranean: Internal, External and Ethical Challenges," *Cambridge Review of International Affairs* 21, no. 2 (2008): 262.

19. Article 14\2c of Regulation (Eu) 2016/1624 of the European Parliament and the Council of September 14, 2016, *Official Journal of the European Union*, L 251/1, September 16, 2016.

20. Commission of the European Communities, "Communication from the Commission to the Council and the European Parliament," Brussels, December 3, 2002.

21. Directive 2008/115/EC of the European Parliament and of the Council of December 16, 2008 on "Common Standards and Procedures in Member States for Returning Illegally Staying Third-Country Nationals," *Official Journal of the European Union*, December 24, 2008; Council of Europe, "Twenty Guidelines on Forced Return," adopted by the Committee of Ministers on May 4, 2005, at the 925th meeting of the Ministers' Deputies.

22. Corinne Balleix, "Border Control and the Right of Asylum: Where Is the EU Heading?" (Jacques Delors Institute Policy Paper No. 114, June 19, 2014), 16.

CHAPTER 11

Crumbling Walls and Mass Migration in the Twenty-First Century

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With the fall of the Berlin Wall in 1989, a new era of open geographical spaces and unparalleled mobility was to replace an ideologically and politically divided world. The rise of a global economy was to bring about the demise of the nation-state, the growth of the Internet made the world seem smaller, and physical borders seemed to be increasingly becoming obsolete. The post-1989 global interconnectedness, however, brought about a "new age of walls" that divide people, cultures, and territories.[1] The building of such "new strategies of exclusion" in the Western Hemisphere mirrors the rise of walls and fences across the Middle East, Africa, and Asia.[2] In recent years, more physical barriers on borders were being built across the globe than at any other time in history.[3]

How can we explain the rise of such new strategies of exclusion? Saskia Sassen argues that the post-1989 rise of global capitalism produced unprecedented wealth, unmatched economic opportunities, and stark inequities.[4] As a result, countries in the Global North and Global South underwent uneven economic developments. It is such economic disparities and inequalities that contributed to the construction boom of border barriers—from the American border fence to Europe's Schengen Wall.[5] Cross-border inequality rather than traditional security concerns is now the most robust predictor of the construction of a border wall.[6]

Besides increasing economic inequality across borders, the political destabilization of the Middle East has crucially contributed to the latest influx of Syrian migrants into neighboring countries. At the same time, politically fragile, weak, and failing states in sub-Saharan Africa and elsewhere have increased the numbers of migrants.[7] Historical reasons for the fragility of such nation-states are many, ranging from the effects of colonialism, neocolonialism, and the imposition of Western-style democracy into political and cultural contexts not amenable to it, to more proximate causes, such as the effects of neoliberalism.

Neoliberal policies in particular have contributed to the political and economic realities of today.[8] During the period of rapid globalization post-1989, underresourced countries in the Global South have become dependent on the

dictates of the neoliberal paradigm; this has created stark inequities within and between countries that have exasperated social problems, ranging from poverty to violence, which in turn has spurred migration. Already in 2003, the World Bank's president argued, "The world will not be stable if we do not deal with the question of poverty. If it is not stable, we will be affected by migration, crime, drugs and terror." At the height of population movements across continents, these words ring disturbingly true.

In 2016, over 65 million people were forcefully displaced worldwide. This is a record high since World War II. One in 122 humans is now a refugee, has been internally displaced, or is seeking asylum. If this number represented the population of a county, it would be the world's twenty-fourth largest, and this trend is expected to accelerate.[9] Germany alone welcomed 1.1 million refugees in 2015.[10] Yet, contrary to popular perceptions, most asylum seekers do not flock to developed and wealthy nations, but mostly to underresourced countries.

In 2014, no EU member state ranked among the ten major refugee-hosting countries. Instead Turkey, Pakistan, and Lebanon topped the list, with such countries as Iran, Ethiopia, Kenya, and Uganda also in the top ten. Developing countries host 86 percent of the world's refugees, and the least developed countries provide asylum to 25 percent of the global refugee population; therefore, only a small fraction of the global refugee population seeks asylum in the Global North. One main reason for the fact that migrants tend to migrate to underresourced countries has to do with geography. Europe and the United States are harder to reach. However, those who attempt to cross the increasingly hard borders to the Global North do so through often treacherous terrain and unruly seas, and they are frequently subject to human smuggling rings. Over 5,350 migrants died in 2015 globally in their attempt to enter the Global North; and in 2016, that number increased to more than 7,000 migrants dead or missing.[11]

The Rise of the New Right

Political sentiments in favor of harder borders and walls in order to better control migration flows have gained increasing momentum. Nevertheless, in 2015, when Hungary's populist prime minister Viktor Orbán announced the construction of a Hungarian border fence to allegedly keep economic migrants or terrorists at bay, the Council of Europe Commissioner for Human Rights called it "ill-advised" and the EU condemned Orbán's proposed policies and encouraged him to instead "promote EU values and to lead by example."[12] Post–World War II Europe had long been united by its commitment to open borders and economic integration inside the EU, democracy and peace, and human rights and the right of asylum (as specified in the 1951 Geneva Conventions and enshrined in the UN Human Rights Charter after World War II). These values were seen as a corner-

stone of the EU's progressive, liberal, and egalitarian outlook. Consequently, in 2012, the EU received the Nobel Peace Prize for having transformed a continent of warfare and conflict into one of peace. By 2015, Europe's political establishment was therefore still largely in agreement that building fences and walls neither promotes European values nor addresses migration and refugee challenges.[13]

This post–Cold War consensus to push liberal values, respect for human rights, and an open-door policy has, however, become increasingly frayed in favor of the raising New Right in Europe and the United States.[14] In April 2016, President Obama still warned against "a creeping emergence of the kind of politics that the European project was founded to reject: an us-versus-them mentality that tries to blame our problems on the other."[15] Yet right-wing populist movements were on the rise in Hungary, Poland, Slovakia, France, Austria, Britain, and Germany.[16]

On June 23, 2016, the post–Cold War liberal centrist establishment was shocked by the decision by the British public to withdraw from the EU in the infamous Brexit vote. Populist, antiestablishment, anti-immigrant, and nationalist sentiments and rhetoric seemed to be the answer to those who felt left behind by the forces of globalization. Calls to strengthen borders and build fences and walls became ever louder. In the United States, the Republican presidential candidate Donald Trump famously rallied his supporters during the campaign trail by shouting "Build That Wall," referring to strengthening the border with Mexico, using anti-immigrant rhetoric to win the hearts and minds of a people. The presidential election of this candidate on November 8, 2016, signaled ever more the increasing shift to far right, populist, and extremist politics.

Critics point to various reasons for the rise of populist, right-wing, anti-immigrant, illiberal, xenophobic, and racist politics, ranging from a backlash to globalization and neoliberalism, rising economic inequality and insecurity, and stagnation to an emerging class of economic losers of the global order. For many critical observers, it is increasing economic inequality that has had a corroding effect on society and democracy.[17] Rising economic inequity and stagnation in tandem with populist leaders who capitalize on negativity and emotions such as fear and anger result in "the others" all too often becoming scapegoats, as the rhetoric of "us versus them" becomes an evocative rhetorical trope. Therefore, at a time of unprecedented mass displacement on a global scale that calls for innovative solutions, short-term remedies (such as building walls and fences) to entrenched and long-term problems become popular.

Ways Forward: A Plaidoyer for Open Borders

Policy makers and experts, however, tend to agree that migration flows are here to stay and that walling migrants out will not solve the challenges of the twenty-

first century. Not only will political instability and economic inequality continue to drive migrants to safer and more prosperous countries, but increasingly climate change will do so too. Climate change will displace people through floods, storms, and rising sea levels, scarcity of food and water, and conflicts sparked as a result.[18]

History also shows that more restrictive border policies, such as in the 1960s in the United States, did not solve the challenges of the twentieth century; instead they created the category of "undocumented immigrants." There are now an estimated twelve million undocumented migrants living in the United States. They are mostly tax-paying workers who are essential to the functioning of the American economy, yet their individual rights are seriously curtailed and they are potentially subject to deportation. Such restrictive policies not only have stripped workers of their rights but also are costly. The United States spends more on border enforcement than on all other federal law enforcement agencies combined.[19]

From the post–Civil War era until after World War I, however, the United States had a mostly open immigration policy, which played a key role in its economic success in the nineteenth and twentieth centuries.[20] With borders hardening and migration intensifying, calls to return to that historic American policy of open borders have been proliferating. Then again, with 193 countries (which is almost triple the number of countries in 1945) and 63 hard borders (including physical barriers such as walls and fences) across the globe, calls for open borders ring hollow. For politicians, the notion of open borders tends to be a "political landmine."[21]

Economists, however, have long argued that open borders are and always have been an effective solution to enhance economic growth, address global inequality, and reduce global poverty. National borders in fact impede economic growth. They trap human capital in locations where people's talents and skills go unused, and they cement inequality in place. In contrast, the freedom to move in order to fill labor demands in more prosperous places could benefit both migrant-sending as well as migrant-receiving countries. Indeed, classic economic theorists such as Milton Friedman touted the economic benefits of unlimited immigration and open borders, and John Kenneth Galbraith also pointed out, "Migration, we have seen, is the oldest action against poverty. It selects those who most want help. It is good for the country to which they go; it helps to break the equilibrium of poverty in the country from which they come. What is the perversity in the human soul that causes people so to resist so obvious a good?"[22] Migration can benefit the migrant-sending country. Many argue that opening up borders—even just a little—would be a much more effective antipoverty program than administering foreign aid in underresourced countries. The remittances that migrants send back to their home country far exceed the flow of foreign aid and thereby can contribute to its stability and economic

well-being. However, migration alone, of course, cannot be the silver bullet for development, but rather structural conditions within the country, including the functionality of legal, economic, political, educational, and health care institutions, crucially determine how migration may effect these countries.[23]

Scholars have also pointed out that migrants who are free to move are less likely to resettle permanently; instead, they are more likely to return to their sender country, bringing back skills and assets that contribute to local standards of living. A 2010 Gallup poll established that with open borders only about 14 percent of the world's adult population would want to move permanently to another country.[24] Consequently, restrictive immigration policies tend to backfire as workers then resort to "illegal means of entering the country . . . and no longer return home," while less restrictive policies encourage circular impermanent moves.[25] Moreover, some scholars argue that with more open borders, states would have to compete for human capital, which could incentivize them to become more accountable to their citizens.[26]

Migration also benefits the migrant-receiving country. Opponents to migration often assume that the size of the economy is fixed and migrants take jobs away from workers already there. However, the economy grows in response to migration. Migrants do not just take but also create jobs. They tend to be more hardworking, motivated, dynamic, entrepreneurial, and innovative than those who did not have to seek a better life elsewhere. They are more likely to open new businesses and their spending increases demand, which subsequently boosts the economy as well as the country's GDP in the long term.[27] Moreover, migrants' skills tend to diverge from those of native workers; rather than being in direct competition, their skill sets tend to be complementary.

Competition, however, is more likely with previous sets of migrants or with natives who have not finished high school. Yet, such groups are in fact more likely to lose their jobs to new technologies; their inherently tenuous position in the labor force would best be addressed through reskilling and retraining in order to secure their prospects in the labor market. Furthermore, migrants tend to be young—a vital attribute in countries with an increasingly graying workforce. Migrants pay taxes, have low medical expenses, and tend to contribute to retirement funds. According to Angel Gurria, OECD's secretary-general, migration is therefore a net positive, even fiscally, for the migrant-receiving country.[28] Migration can therefore benefit both sending and receiving countries.

Scholars and policy makers have also pointed out that the rise of a global economy imposes certain regulatory and moral challenges that have not yet been addressed. For instance, in an increasingly global economy, institutions and organizations have tended to remain national, rather than transnational, in their outreach and jurisdiction. Labor unions are a case in point. In a transnational economy, nationally organized labor unions become increasingly limited in their scope and relevance. The same is the case for human rights. As Philippe

Legrain suggests, "The state in the twenty-first century will have to get used to managing the rights and status of nationals who are outside its territory, and aliens who are in its territory—in other words, to dealing with populations on the move."[29] The functionality of a transnational and globally interdependent economic system depends on the mobility of labor, yet regulations continue to be limited to the national level.

A global economy also entails moral imperatives. According to Legrain, a global economy in which borders are soft for goods, services, and a privileged global citizenry but hard for the socioeconomically disadvantaged amounts to a form of "global apartheid." Some, therefore, liken the elimination of limits on migration to the abolition of slavery and the recognition of the rights of women. In both cases, not only did the inherent inequality become unsustainable, but the entry of African Americans and of women into the economy also spurred economic growth and enriched society.[30] Increasing diversity boosts innovation and productivity. This was historically the case upon the entry of African Americans and women into the labor force, and it is the case today. Migrants "bring different skills, varied views, diverse experiences and a zeal for self-improvement that combine with the talents of local people to boost innovation, productivity and economic growth."[31] Indeed, Intel, Google, and many Silicon Valley companies were started by immigrants; one-third of Americans who have won a Nobel Prize in physics in the past seven years were born abroad; and 40 percent of science and engineering PhDs are conferred on migrants. There is little doubt that in the long term migration is good for the economy and society. Therefore "closed borders are one of the world's greatest moral failings but the opening of borders is the world's greatest economic opportunity."[32]

Ways Forward: Best Practices

In 2015, UN high commissioner for refugees António Guterres (who subsequently become UN secretary-general) declared, "For an age of unprecedented mass displacement, we need an unprecedented humanitarian response and a renewed global commitment to tolerance and protection for people fleeing conflict and persecution."[33] That same year, UN secretary-general Ban Ki-moon pointed out that "the components needed for a comprehensive solution are at hand, but they need to be implemented!"[34] Concrete solutions to unprecedented migration flows are numerous. Various countries have already implemented some of them successfully.

More recently, Germany exemplified some best practices concerning the integration of migrants. The country welcomed and integrated 1.1 million migrants in 2015 (although that figure diminished in 2016).[35] At the time, American policy makers within former president Obama's administration commended

Germany not only for welcoming the most refugees in Europe (alongside Sweden) but also for the high level of federal and state funds that were used to fund governmental and nongovernmental programs that supported the integration and assimilation of migrants.[36] For instance, the Ministry of Migration and Refugees (in tandem with the Federal Employment Agency) developed "an integrative refugee management system."[37] The aim was to speed up the asylum and integration process, to improve security screenings, and to foster the rapid cultural and linguistic integration of migrants. Policy makers and think tanks point out that rapid integration into the host culture and its labor force diminishes a sense of alienation and disenfranchisement among new immigrants and thereby constitutes the most effective counterterrorism measure.

While better security screenings are important, it is lack of integration that can breed disaffection. Programs fostering the integration of migrants are also economically advantageous for Germany in particular, given its graying labor force and shrinking demographic numbers. Furthermore, besides improving the procedures for integrating migrants into German society, the German government also worked with international partners to help address the humanitarian consequences of the global migrant crisis and to improve conditions in migration-sending countries.

Yet despite such forward-looking policies, there are hindrances to migrants' integration into German society. Despite the fact that by 2015 one in five people in Germany was foreign-born, Germany continued to struggle with integrating its increasingly diverse population. Nonskilled, skilled, and educated migrants often lack sufficient access to institutions of professional and higher education; also, their access to the labor market is limited. Furthermore, Germany's academically tiered educational system tends to relegate migrant children to schools that leave them more likely to become economically disadvantaged and disenfranchised. The absence of German as a foreign language training programs—along the lines of the generally successful English programs offered in US schools—also makes the successful integration of immigrant children into German society and its economy more difficult. While the German government's commitment to integrating migrants has exemplified some best practices, Israel also demonstrates how integration of a diverse population can serve national interests.

Despite Israel's exclusionary policies toward Palestinians and its marginalization of Arab Israelis within Israeli society, the state can nevertheless serve as a role model for successful immigration policy, albeit only for people of Jewish origin. While politically highly contested due to its discrimination toward non-Jews, Israel's Law of Return allows people of Jewish origin to claim citizenship in Israel. In practice, Jewish migrants to Israel come from very diverse educational, socioeconomic, and national backgrounds and from North Africa, America, Russia, and Europe. In the 1990s, Israel's flexible economy absorbed incoming migrants and thrived as a result, fueling a high-tech sector and a culture

of Internet entrepreneurism. A crucial factor in the successful integration of new migrants is the state's commitment to their support and rapid economic, political, and social integration. Indeed, the Ministry of Immigrant Absorption points potential migrants to resources needed for successful assimilation into Israeli society.[38] It provides logistical and financial help in finding housing and employment and establishing new businesses. It even includes a welcome package to launch new migrants into life in their newly adopted country. Jewish migrants also quickly gain the right to be citizens, providing them with a sense of belonging and a stake in society. Moreover, a system of Hebrew-language training centers (ulpanim) that are scattered across the country provides new immigrants free language training and a place to socialize and network with other new migrants. Yet while the Israeli government provides help to migrants to socially and economically integrate themselves more effectively, migrants are not expected to surrender their cultural heritage, with TV programs offered in various languages, including Russian. Thus, while people are made to feel like they belong, their national origin and diversity are not erased.[39] The lessons from Israel again underscore how the state's commitment to absorbing new citizens is crucial for their successful integration and beneficial for the national economy.

Best practices are not just confined to the Global North. Given the large numbers of migrants who end up in underresourced countries, policies of the government of Uganda provide a model of how to better integrate new populations. Uganda is often referred to as a "refugee oasis" as it integrates asylum seekers through the Self Reliance Strategy and the Poverty Eradication Action Plan, which promote local integration, self-reliance, and sustainable living conditions.[40] Its Refugee Asylum Policy (the 2006 Refugee Act and 2010 Refugee Regulations) provides the legal and regulatory framework and gives migrants the right to work and freedom of movement; Uganda's Refugee Settlement Model enables migrants to live in settlements, not camps. In other words, these policies allow migrants "to fish for themselves." The goal is to move "from relief to development" by allowing self-reliance. To do so, the government allocates land plots within settlements to new migrants for their own agricultural use; and their agricultural self-sufficiency ensures sustainable living standards. This is not to say that Uganda's Refugee Model does not at times fall short of its intentions; indeed, the local geography and environment, regional trade networks, and variable implementation of policies can impact its effectiveness. However, despite its potential shortcomings, it remains "truly a model for refugee management not only in Africa but the world over."[41]

As the above examples show, best practices are known—whether they inform policies in Germany, Israel, or Uganda. With the migrant crisis at its peak in 2016, policy makers encouraged various governmental and nongovernmental programs to foster exchanges between countries in order to identify such best practices concerning the assimilation and integration of new migrants. After

all, with populations on the move in the twenty-first century, to develop policies and programs to integrate them effectively has become one of the primary challenges of the decade.

Ways Forward: Changing Policies and Changing Stories

Besides the geopolitical and moral imperative to integrate new populations into their new host counties, the economic advantages of assimilating and integrating migrants are well documented. To reiterate, the International Monetary Fund calculated that the integration of migrants into the labor force would boost the economy in the long run and increase GDP, not least because migrants are twice as likely to start new businesses and thereby create more jobs; they also tend to generate innovation, dynamism, and aspiration in their new host culture (as uprooted people often outperform those who have not had to go through such an assimilation process).[42] The integration of migrants also helps reverse the demographic decline in many countries in the Global North and helps pay for the pensions of aging baby boomers: "The key message . . . is that policymakers and practitioners should stop considering refugees as a 'burden' to be shared, but as an opportunity to be welcomed. With a suitable upfront investment and wise polices, welcoming refugees can yield substantial economic dividends."[43] There are many ways to heed António Guterres's call for an "unprecedented humanitarian response" in order to address "unprecedented mass displacement."[44] First and foremost, the current magnitude of global migration necessitates that what has long been treated as a national issue must be recast as an international and transnational issue. This entails international cooperation and sharing responsibility over hosting and integrating migrants. There is a need to harmonize migration and asylum policies. For instance, a uniform policy on migration across different EU member states would be in line with the history of Europe's greatest achievement—its postwar integration and commitment to open borders, human rights, and the right to asylum. Consequently, there is a need to reform the Dublin Regulation in favor of responsibility sharing (so it is not necessarily the first country of arrival that processes the refugee). As Ban Ki-moon pointed out, "If one lesson can be drawn . . . it is that individual countries cannot solve these issues on their own. International cooperation and action to address large movements of refugees and migrants must be strengthened."[45]

Observers have proposed that part of the international responsibility-sharing policy could entail that migrant-producing countries be required to compensate migrant-receiving countries or that surcharges on airline tickets could help fund migration challenges. After all, an airline ticket to Europe would be cheaper than paying smuggling rings and risking lives in the Mediterranean.[46] Moreover, policy proposals also include revising and expanding requirements for legal

immigration in order to provide for safe passage and thereby cripple smuggling networks; opening consular outposts (in the case of the EU in such countries as Turkey and Libya) where people could apply for humanitarian visas, rather than requiring them to make such claims inside the host country; and expanding resettlement programs. Most importantly, international efforts should focus on helping to implement economic and political policies that eradicate causes of migration, without, at the same time, "looting" local human and physical capital as well as resources.[47] National and transnational institutions also need to improve how they measure their impact on multiple dimensions of development in order to more effectively stabilize weak and unstable regimes that precipitate migration in the long term.[48] Such a toolbox of policies to deal with unprecedented migration flows should go hand in hand with a public relations campaign pointing to the benefits of migration.

Policy makers have increasingly called for concerted governmental and nongovernmental efforts to counter anti-immigrant messages with pro-immigrant messages. There is no "migration crisis," but the migrant movements across the globe in the twenty-first century provide for potential opportunities, resources, and economic windfalls in the long term. According to the Overseas Development Institute, "European politicians and the wider public need to start seeing migrants and refugees as a valuable resource rather than a problem," otherwise "host countries are missing out on the economic benefits of migration and new arrivals."[49] Yet sensationalist images of migrants streaming across national borders with concurrent commentaries of right-wing pundits evoking nationalist and racist sentiments have increasingly turned popular sentiment against an open-door policy. Therefore at a time when mass migration requires an unprecedented response, we are in danger of failing the test of history.

With the power of the media at unparalleled levels, the images of refugees and migrants circulating in the news and across the Internet perpetuate "the othering" of refugees and migrants. Unlike Cold War refugees who were heralded as political agents of integrity, heroism, and courage, today's refuges are more often than not presented as vulnerable, feminized, and traumatized victims who lack political agency and need to be managed by external agencies.[50] Such "sympathetic identification with refugees over the last two decades has been against the backdrop of worsening refugee rights."[51] On the other hand, politicians have increasingly pandered to xenophobia and fear "of the other" by equating migrants with terrorists and snakes (a metaphor used by US president Donald Trump) instead of explaining the benefits of immigration.[52] Arguably, we need to reform such public narrative of victimized agentless refugees and migrants as snakes or Trojan horses in favor of stories that speak to the entrepreneurism, dynamism, and courage of those who risk their lives to live in a better world.[53] And if nothing else, legal and moral precepts call for guarantees to uphold human rights, the right of asylum, and protection from persecution.

Stories have always been a powerful way of handing down wisdom and knowledge. We need new stories about the benefits of migration and stories to remind ourselves that migration is not only about economy and politics but also about morals and ethics. For example, a Congolese colleague who has been a migrant all his life told me of how he recently walked for two and a half days from his village in the remote region of South Kivu to the city of Uvira in the south of the Democratic Republic of Congo. On the way he stopped in a village, and the villagers provided him with food and shelter and talked with him until one o'clock in the morning. The next day he continued his walk. His experience encapsulates the meaning of the African concept of "Ubuntu," which Nelson Mandela depicted: "A traveler through a country would stop at a village and he didn't have to ask for food or for water. Once he stops, the people give him food, entertain him. . . . The question therefore is: Are you going to do so in order to enable the community around you to be able to improve?"[54] Globalization has increasingly transformed the world into a "global village."[55] How we respond to populations on the move, whether due to economic inequities, war and conflict, or climate change, will inevitably shape our "global village" of tomorrow.

NOTES

1. Samuel Granados, Zoeann Murphy, Kevin Schaul, and Anthony Faiola, "Raising Barriers," *Washington Post*, October 12, 2016; Julian Borger, "Security Fences or Barriers to Peace?," *Guardian*, April 27, 2007.

2. Mike Davis, "Beyond Blade Runner: Urban Control. The Ecology of Fear," *Criminal Perspectives: Essential Readings*, Open Magazine Pamphlet Series 23 (2003): 527–41.

3. "More Neighbours Make More Fences: Boundary Walls and Security Fences Worldwide," *Economist*, January 7, 2016; Samuel Granados, Zoeann Murphy, Kevin Schaul, and Anthony Faiola, "The Dawn of Walls," *Independent*, October 14, 2016.

4. Saskia Sassen, *Territory, Authority, Rights: From Medieval to Global Assemblages* (Princeton, N.J.: Princeton University Press, 2006).

5. Europe's Schengen Agreement specifies severe visa restrictions on people outside of the European Economic Zone.

6. David B. Carter and Paul Poast, "Why Do States Build Walls? Political Economy, Security, and Border Stability," *Journal of Conflict Resolution* 61 (2017): 239–70.

7. The Organisation for Economic Co-operation and Development (OECD) points out that in an era of globalization, functioning, strong, resilient, and legitimate nation-states that are transparent and accountable are the bedrock of the international political system. Weak states, however, have been proliferating. See OECD, "Concepts and Dilemmas of State Building in Fragile Situations: From Fragility to Resilience" (April 17, 2009).

8. According to the neoliberal dictate, underresourced and weak nation-states are to adopt "open-door policies" characterized by deregulation, privatization, and the influx of foreign capital and investment. Such policies have enriched some local and international elites, while local infrastructures, resources, and human capital have remained largely untapped and underdeveloped. See Neil Brenner and Nik Theodore, "Cities and the Geographies of Actually Existing Neoliberalism," *Antipode* 34 (2002): 349–62; Francis

Owusu, "Pragmatism and the Gradual Shift from Dependency to Neoliberalism: The World Bank, African Leaders, and Development Policy in Africa," *World Development* 31, no. 10 (2003): 1655–72; Amartya Sen, *Development as Freedom* (Oxford: Oxford University Press, 1999); Todd C. Frankel, "The Cobalt Pipeline: Tracing the Path from Deadly Hand-Dug Mines in Congo to Consumers' Phones and Laptops," *Washington Post*, September 30, 2016; Amnesty International, "This Is What We Die For: Human Rights Abuses in the Democratic Republic of the Congo Power" (2016).

9. UNHCR, "Worldwide Displacement Hits All-Time High as War and Persecution Increase," in *UNHCR: Global Trends: Forced Displacement in 2016*, June 18, 2015, http://www.unhcr.org/globaltrends2016/.

10. German Federal Office of Statistics Data, "Statistical Data on Refugees," https://www.destatis.de/EN/FactsFigures/_CrossSection/Refugees/Refugees.html.

11. Park Madison, "Which Countries Take in Most Refugees? Not the West," *CNN*, July 5, 2012; UNHCR, "World at War: Global Trends: Forces Displacement in 2014" (2014); Nils Muiznieks, "You Are better Than This, Europe," *New York Times*, June 28, 2015; Melissa Fleming, "The Death Boats: A Survivor's Tale" (UNHCR, June 30, 2015); Elias Groll, "Why Europe's Migrant Tragedy Is a Political Crisis," *Foreign Policy*, April 21, 2015.

12. European Parliament 2014–19, "Situation in Hungary: European Parliament Resolution of 10 June 2015 on the Situation in Hungary" (2015/2700 RSP); see also Lydia Gall, "Dispatches: Hungary's Anti-migrant Fence Is an Insult to Its History" (Human Rights Watch, June 22, 2015); Dan Bilefsky, "Hungary's Plan to Build Fence to Deter Migrants Is Criticized," *New York Times*, June 18, 2015.

13. However, it has to be noted that the EU's external borders have nevertheless hardened over the years (e.g., major additions were made to fences at Melilla and Ceuta in 2005), with physical and bureaucratic barriers making it increasingly difficult for non-EU citizens to enter the Common Market.

14. Gregor Aisch, Adam Pearce, and Bryant Rousseau, "How Far Is Europe Swinging to the Right?," *New York Times*, December 5, 2016; Thomas Greven, "The Rise of Right-Wing Populism in Europe and the United States," *Perspectives Report* (Berlin: Friedrich-Ebert-Stiftung Berlin, 2016); Paul Hockenos, "A Putsch with a Pretty Face," *Foreign Policy*, May 17, 2016.

15. White House Office of the Press Secretary, "Remarks by President Obama in Address to the People of Europe" (April 25, 2016); Sylvie Kauffmann, "Austria's Election Is a Warning to the West," *New York Times*, May 18, 2016.

16. "Vexed in Vienna," *Economist*, May 21, 2016; Richard Fontaine and Robert D. Kaplan, "How Populism Will Change Foreign Policy: The Bernie and Trump Effects," *Foreign Affairs*, May 23, 2016.

17. Leo Benedicturs, "Noam Chomsky on Donald Trump: 'Almost a Death Knell for the Human Species,'" *Guardian*, May 20, 2016; Greven, "Rise of Right-Wing Populism"; C. J. Polychroniou with Noam Chomsky, "Is European Integration Unraveling? Interview with Noam Chomsky," *Truthout*, January 25, 2016.

18. Todd Miller and Alex Devoid, "How the Border Security Industry Will Profit Hugely from Climate Change," *In These Times*, June 15, 2015.

19. Roque Planas, "16 Reasons Why Opening Our Borders Makes More Sense Than Militarizing Them," *Huffington Post*, September 2, 2014.

20. The seeds of migration restrictions were sown during this era through several early laws including the Chinese Exclusion Act of 1882.

21. Ana Swanson, "Opening Up Borders: An Idea Economists Tend to Love and Politicians Detest," *Washington Post*, October 14, 2016.

22. John Kenneth Galbraith, *The Nature of Mass Poverty* (Cambridge, Mass.: Harvard University Press, 1979), 136.

23. Hein de Haas, "The Migration and Development Pendulum: A Critical View on Research and Policy," *International Migration* 50 (2012): 8–25.

24. Bryan Caplan and Vipul Naik, "A Radical Case for Open Borders," in *The Economics of Immigration: Market-Based Approaches, Social Science, and Public Policy*, ed. Benjamin Powell (Oxford: Oxford University Press, 2015), 1–40.

25. Klaus F. Zimmermann, "Circular Migration: Why Restricting Labor Mobility Can Be Counterproductive," *IZA World of Labor* 1 (2014).

26. "Benefits to Immigrant-Sending Countries," *Open Borders*, n.d.; Ilya Somin, "Foot Voting, Federalism, and Political Freedom," in *NOMOS LV: Federalism and Subsidiarity*, ed. James E. Fleming and Jacob T. Levy (New York: New York University Press, 2014), 83–122; Caplan and Naik, "Radical Case for Open Borders."

27. A National Academy of Sciences report on "The Economic and Fiscal Consequences of Immigration" (2016) found that short-term economic shortfalls tend to be made up by long-term gains from immigration. The report pointed out that an influx of migrants generally boosts economic performance, but may affect the most disadvantaged more negatively; children of migrants tend to have high rates of upward mobility and contribute most productively to the economy in the long run.

28. Leighton Ku, "Health Insurance Coverage and Medical Expenditures of Immigrants and Native-Born Citizens in the United States," *American Journal Public Health* 99, no. 7 (2009): 1322–28; Alexia Fernandez Campbell, "The Truth about Undocumented Immigrants and Taxes," *Atlantic*, September 12, 2016; Swanson, "Opening Up Borders."

29. Philippe Legrain, *Immigrants: Your Country Needs Them* (Princeton, N.J.: Princeton University Press, 2014), 319.

30. Swanson, "Opening Up Borders"; Bryan Caplan, "The Case for Open Borders," *Time*, October 7, 2015.

31. Legrain, *Immigrants*, 19.

32. Alex Tabarrok, "The Case for Getting Rid of Borders—Completely," *Atlantic*, October 10, 2015.

33. UN News Center, "UN Warns of 'Record High' 60 Million Displaced amid Expanding Global Conflicts," June 19, 2015.

34. UN News Center, "'Risks of Inaction Are Considerable,' Says Ban, Urging New Compact on Refugees and Migrants," May 9, 2016.

35. "Nearly 1.1. Million Migrants Arrived in Germany in 2015," *Deutsche Welle*, December 30, 2015.

36. UNHCR, "A Refugee Triathlon," July 1, 2015.

37. German Federal Office for Migration and Refugees (2016), http://www.bamf.de/DE/Startseite/startseite-node.html.

38. See Ministry of Immigrant Absorption, http://www.moia.gov.il/English/Pages/default.aspx.

39. Legrain, *Immigrants*, 321–22.

40. "Why Uganda Is So Good for Refugees," *BBC*, May 13, 2016; Sarah Dryden-Peterson, "Local Integration as a Durable Solution: Refugees, Host Populations and Education in

Uganda" (UNHCR Policy Development and Evaluation Service Working Paper No. 93, 2003); Sarah Meyer, "The 'Refugee Aid and Development' Approach in Uganda: Empowerment and Self-Reliance of Refugees in Practice" (UNHCR Policy Development and Evaluation Service Research Paper No. 131, 2006).

41. David Kigozi, "The Reality behind Uganda's Refugee Model," *Refugees Deeply*, May 30, 2017.

42. Philippe Legrain, "Refugees Work: A Humanitarian Investment That Yields Economic Dividends," *Open Political Economy Network*, May 18, 2016; Richard Reeves, "In Defense of Immigrants: Here's Why America Needs Them Now More Than Ever," *Brookings*, May 17, 2016; Derviş Kemal, «Turning Crisis into Success in Germany," *Brookings*, May 13, 2016; Patrick Kingsley, "Refugees Will Repay EU Spending Almost Twice over in Five Years—Report," *Guardian*, May 18, 2016.

43. Legrain, "Refugees Work," 9; Helen Dempster, "Migration to Europe: Latest Statistics and New Trends" (Overseas Development Institute, December 14, 2016); Swanson, "Opening Up Borders."

44. UN News Center, "UN Warns of 'Record High' 60 Million Displaced amid Expanding Global Conflicts," June 19, 2015.

45. "Europe's Response to Refugees Has Been Pitiful," *Guardian*, May 14, 2016, https://www.theguardian.com/commentisfree/2016/may/14/observer-view-refugees-immigrants-europe-response.

46. Gay S. Goodwin-Gill and Selim Can Sazak, "Footing the Bill," *Foreign Affairs*, July 29, 2015; Siobhan O'Grady, "Could Adding a Small Fee to Airline Tickets Solve Europe's Migration Crisis?," *Foreign Policy*, July 3, 2015.

47. Howard French, "The Plunder of Africa: How Everybody Holds the Continent Back," *Foreign Affairs*, July/August 2015.

48. De Haas, "Migration and Development Pendulum."

49. Overseas Development Institute (ODI), "Journeys to Europe: The Role of Policy in Migrant Decision Making" (February 2016), 7.

50. Soviet dissidents were presented as public intellectuals, artists, and writers standing up for freedom of expression and against political oppression. However, once the Cold War ended, refugees no longer possessed ideological or geopolitical value. See Vanessa Pupavac, "Refugee Advocacy, Traumatic Representations and Political Disenchantment," *Government and Opposition* 43, no. 2 (2008): 270–92; Vanessa Pupavac, "Refugees in the 'Sick Role': Stereotyping Refugees and Eroding Refugee Rights" (UNHCR Policy Development and Evaluation Service Research Paper No. 128, 2006); B. S. Chimni, "The Geopolitics of Refugee Studies: A View from the South," *Journal of Refugee Studies* 11, no. 4 (1998): 350–74.

51. Pupavac, "Refugee Advocacy," 277.

52. Andrew Buncombe, "Donald Trump Likens Immigrants to a Poisonous Snake That Bites the Person Who Lets It In," *Independent*, March 15, 2016.

53. ODI, "Migration to Europe: Latest Statistics and New Trends" (December 14, 2016).

54. Claire Oppenheim, "Nelson Mandela and the Power of Ubuntu," *Religions* 3 (2012): 369–88.

55. Anthony Giddens, *Runaway World: How Globalization Is Reshaping Our Lives* (London: Routledge, 2002).

PART 3

Activism for Free Movement

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CHAPTER 12

Asylum Reporting as a Site of Anxiety, Detention, and Solidarity

ANDREW BURRIDGE

Asylum seekers awaiting a decision on their application to remain in the United Kingdom are required to regularly report to the UK Visas and Immigration Agency (UKVI; formerly UK Border Agency), a department of the UK Home Office that describes its role as "achieving the Home Office's priorities of securing our borders and reducing immigration, cutting crime and protecting our citizens from terrorism."[1] Reporting centers are located within existing Home Office buildings or at local police stations where UKVI officials will set up temporarily, typically for one or two days a week. Such buildings must have the capacity to detain persons, classified by Her Majesty's Inspectorate of Prisons (HMIP) as "short-term holding facilities" (STHFs) for immigration and "custody suites" for police stations.[2] Reporting is therefore a moment of exceptional anxiety and difficulty for those who are awaiting a decision on their status and a site of potential disappearance into the wider, often chaotic, detention and deportation infrastructure. The threat of detention and removal is constant during the time spent awaiting a decision on an asylum claim and is particularly so at the moment of reporting—a technology deployed by the Home Office to both fix in place and bring asylum seekers to them, alongside the use of home and workplace raids and constantly evolving surveillance strategies.

This chapter maps these sites of detention, which have been largely overlooked within the wider carceral landscape of the United Kingdom, and the forms of solidarity that coalesce around them. At both Home Office and police reporting locations, STHFs and custody suites are used to detain persons before transfer to immigration removal centers (IRCs; more commonly referred to as detention centers), typically located several hours by car from the reporting site, such as Harmondsworth IRC situated beside Heathrow International Airport (see table 12.1). For those supporting reporters—whether friends, family, or a more formalized group—this time in an STHF or custody suite at the reporting site is a crucial moment for advocacy before they are transferred to an IRC,

TABLE 12.1. Immigration Reporting Centers in the United Kingdom, 2016

Reporting Center	Location
Becket House	London
Lunar House	Croydon
Eaton House	Middlesex
Middlesbrough Reporting Center (Teesside)	Middlesbrough
South Yorkshire Reporting Center	Sheffield
Waterside Court Leeds	Leeds
Heol Pentrefelin	Swansea
Cardiff General Building	Cardiff
Drumkeen House	Belfast
Festival Court	Glasgow
Dallas Court	Salford
Capital Building	Liverpool
East Midlands	Loughborough
Sanford House	Solihull

SOURCE: UK Home Office, accessed through Freedom of Information Request (39885), July 5, 2016.

and potentially onward to an airport (which will also have STHFs on site) for removal from the country.

To date there is no publicly available information providing a detailed overview of the landscape of STHFs and custody suites used for immigration and asylum reporting. Through interviews and the use of freedom of information access (FOIA) requests, I have sought to better understand the role of reporting within the wider landscape of UK detention and deportation and its related infrastructures in an effort to locate and make visible these interconnected spaces and sites of disappearance.

I consider the use of distance as an additional tool of punishment by the Home Office, contributing to the risk of becoming noncompliant in the eyes of the state. Across the United Kingdom, closures of both police stations and Home Office buildings used as reporting locations have resulted in the relocation of reporting for many, meaning costly and lengthy journeys. Both the police and the Home Office have been undergoing a process of consolidation to reduce costs, such as through the building of police "super centers" combined with the closure of several smaller police stations.[3] These closures have had significant ramifications for those who are required to report to authorities and for groups seeking to provide solidarity, with little consideration of such impacts from the Home Office.

This investigation into the use of reporting is also based out of the ongoing work of the Bristol Signing Support group, an initiative that developed from a request for accompaniment in 2011 by several asylum seekers attending Bristol

Refugee Rights, a local user-led organization that provides support for asylum seekers and refugees dispersed under government policy to the city of Bristol.[4] I consider the role and importance of similar reporting support groups across the United Kingdom and their vital solidarity work, but also question the risk of such work in inadvertently making the system of reporting more efficient and smooth in its operation, potentially aiding deportation to home or third countries for those seeking asylum. This chapter also acknowledges the vital support provided by family members, friends, and other informal networks that goes largely unrecognized alongside more formalized efforts.

This chapter therefore considers the everyday deportability of those seeking asylum and the forms of mobility policing that are enacted through the use of reporting. Highlighting these relatively hidden and mundane sites of bordering and their connection to forms of incarceration and deportation, coupled with the efforts of grassroots support groups, demonstrates the importance of bringing a no borders ethos to the scale of the local and the everyday. This chapter asks how free movement within our communities can be promoted and defended, but also considers the inherent risks of solidarity and support work that may inadvertently shore up existing institutions and practices of bordering and mobility policing.

Reporting to the Home Office

Reporting—more typically referred to as "signing" or "signing on"—has received little attention to date across academia, popular media, and social movement organizing. What attention it has drawn has focused on reporting specifically for those released from detention or prison on bail (the latter being classed as foreign national offenders [FNOs] by the British state).[5] While those on bail are required to report, those who are awaiting an asylum appeal hearing, who have an onward appeal following a rejection of their initial appeal, or who are unable to be returned—either voluntarily or through forced removal (deportation)—due to their home country not having a return agreement or diplomatic ties with the United Kingdom also must report.

Reporting, typically on a weekly, monthly, or six-monthly basis, depending on an individual's circumstances and status, is an often unnoticed or unknown moment within the wider process of claiming asylum. As Ines Hasselberg has stated in her research on those released on bail and/or classed as FNOs in the United Kingdom, reporting is "located at the intersection between deportability and deportation."[6] It is also often coupled with the use of electronic monitoring and curfews for those released on bail with such conditions placed on them.[7] Reporting is thus one of several technologies that the Home Office employs within its strategies of surveillance and deterrence, what Jonathan Darling has framed

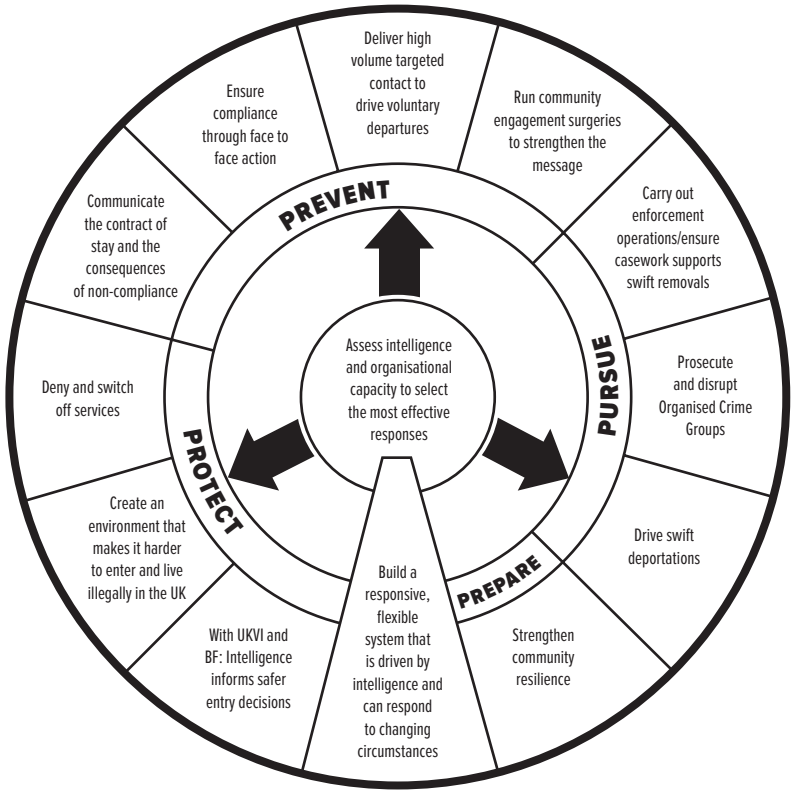
Deliver high volume targeted contact to drive voluntary departures
Run community engagement surgeries to strengthen the message
Carry out enforcement operations/ensure casework supports swift removals
Prosecute and disrupt Organised Crime Groups
Drive swift deportations
Strengthen community resilience
Build a responsive, flexible system that is driven by intelligence and can respond to changing circumstances
With UKVI and BF: Intelligence informs safer entry decisions
Create an environment that makes it harder to enter and live illegally in the UK
Deny and switch off services
Communicate the contract of stay and the consequences of non-compliance
Ensure compliance through face to face action
PREVENT
PURSUE
PREPARE
PROTECT
Assess intelligence and organisational capacity to select the most effective responses

FIGURE 12.1. The Dial. SOURCE: UK Home Office 2015; the Home Office used data from Her Majesty's (HM) Prison Service, Experian, the Department for Work and Pensions, UK Visas and Immigration, the Border Force, the Driver and Vehicle Licensing Agency, the Foreign and Commonwealth Office, HM Revenue and Customs, and the National Crime Agency.

as creating a "politics of discomfort,"[8] and what has been repeatedly stated by the UK government as a concerted effort to "create a hostile environment" for those with irregular status.[9]

In 2015, the Home Office and UKVI began handing out copies of "The Dial" (see figure 12.1) to asylum support groups in explaining their reasoning for measures including the requirement to report.[10] A particular focus is on creating "compliance" as well as the creation of this more hostile environment. On the reverse of the handout is the following statement: "The Dial is a visual representation of our strategic objectives showing the wide range of tactics that we need to deploy in order to effectively drive down immigration crime. Our collective use of intelligence is at the heart of the approach which we then use to select the most effective responses to any given threat . . . a flexible system that we can 'dial up' in response to emerging threats or ministerial priorities."

As can be seen at the bottom of "The Dial" image, there are multiple agencies—and partnerships between them—involved in ensuring compliance, including the UKVI and Her Majesty's Prison Service. While such enforcement, framed as being concerned with driving down crime, has also been targeted at those awaiting a decision on their asylum claim, in 2014 nationwide reporting compliance was stated by the Home Office to be at 95 percent, thus suggesting little need for such "dialing up" efforts against this community.[11]

At a point of reporting, asylum seekers are brought into direct contact with several enforcement agencies, and several more if their reporting location happens to be in a police station. At police stations, UKVI officials are given space at the reception desk several days a week, typically with one or two agents present. While those reporting may face a lengthy wait in line, often outdoors in all weather conditions, the actual process of reporting is quick, typically involving signing a checklist as proof of attendance. Each person or family is assigned a day of the week and a two-hour window in which to report. If they arrive before or after this window they will often be turned away or forced to wait. If they fail to notify the Home Office that they will be late or not attend on their assigned day (with sufficient evidence of why), they become at risk of losing any support they are entitled to and being detained, due to their failure to comply with their conditions. The pressure to attend a reporting event on time—either weekly, monthly, or six-monthly—is therefore immense. As one person required to report in Bristol reflected, "I see no reason why people should be signing weekly. Two to three days before signing you can't eat. After signing you are happy, then after three days you start to worry again. I feel so worried for those still signing weekly. Nothing guarantees you will sign and go back home. It is very sad. It dominates lives. We must end signing" (M, West Africa).[12] Reporting is also frequently used as a moment for conducting unannounced interviews, framed to the person reporting as simply a conversation and therefore not requiring legal representation or advice. Such questioning and interviews are used as "fishing expeditions" for additional evidence to prove that someone's claim is ineligible, and potentially used against the individual at the appeal hearing.

Furthermore, reporting events are an opportunity for UKVI officials to attempt to convince people that they should return to their home country by providing information on how the UK government can assist their return through the Assisted Voluntary Return Program.[13] As a Home Office spokesperson stated, "Reporting centers are a vital part of our work to progress cases as quickly as possible, to encourage the voluntary return of people who have no basis of stay in the UK and enforce returns where necessary."[14] Again this is done without the presence of legal advice, unless specifically requested. In 2015 at various reporting sites across the country, supposedly compulsory questionnaires were also handed out to persons, who were then told to fill them out without seeking legal advice and return them at their next reporting event.[15] These questionnaires

requested not only comprehensive personal and family information but also addresses where the individuals had stayed as well as details of other people residing at these addresses, whether they were doing any voluntary work, and other seemingly innocuous questions pertaining to "life goals." These questionnaires were provided only in English, creating further difficulties and anguish, given the risk of accidentally recording inaccurate information that could later result in detention and deportation.

Connecting Reporting to the UK Detention Estate and Everyday Deportability

The UK detention estate is continually growing, one of the largest in the European Union, and one of the few systems that employs indefinite detention.[16] Between 2,000 and 3,500 people are detained at any given time, the most common category of immigration detainee being asylum seekers; in 2015 a total of 32,400 people were detained at some point. While the majority of persons are held for under two months, many are held for much lengthier periods, sometimes years, and may face a constant churn of relocation between IRCs.[17] For many, detention is not a one-off event and may occur several times during their fight to remain in the United Kingdom. This may involve being taken to airports and placed on deportation flights, only to be removed from the flight due to last-ditch efforts by their lawyers or anti-deportation campaigns.

While many in detention are placed there immediately after arriving in the United Kingdom, following workplace or home raids, or due to encounters with authorities including the police, others find themselves in detention after attending a reporting event. Reporting is therefore deeply coupled with detention and deportation and must be seen as creating what Nicholas De Genova has framed as an "everyday deportability"—the intersection of deportability and deportation that Hasselberg noted earlier—both for asylum seekers and for those classed as FNOs.[18]

Reporting is also often hidden from view—an aspect of the asylum system that I have found local government representatives, legal advocates, and others involved in the asylum appeal and wider immigration system to be largely unaware of. It is a site of detention and disappearance, creating exceptional anxiety for those reporting and for their family or friends: the risk every week or month that they may not return home. Yet it is also visible in other ways: being forced to stand outside in lengthy lines at local police stations, at times the target of racist abuse from passers-by, and periodically mentioned in the media in efforts to create fear that "foreign crooks" are roaming the streets.[19] Reporting has also been used to garner support for various nationalist and right-wing anti-immigrant groups, such as the far-right British National Party (BNP), members of which have previously held protests at these sites or used them as photo opportunities.

Detention at a Reporting Event

While those reporting typically remain unaware of exactly when they will be detained at their reporting event, UKVI agents will have known for some time that a particular person or persons will be detained that day. At police stations, a telltale sign for support groups that a detention will take place is the arrival of Immigration Enforcement vehicles that will enter the secure police parking facilities. In other cases, individuals reporting may notify support groups that they believe they are at risk of detention on a given day.

When individuals are detained during their reporting event at a Home Office building, they are placed in holding facilities managed by the outsourced private security company Tascor. In the instance of detention at a police station, Immigration Enforcement agents (also under the Home Office) will arrive to first detain the individuals within the police station holding facilities, typically in the basement. These holding cells are managed by a police custody officer, with the use of private security also currently outsourced to Tascor. There are a plethora of authorities whom an asylum seeker facing detention at a reporting event will therefore potentially encounter: police front-desk staff, police custody officers, UKVI, Immigration Enforcement, and private security. For both those reporting and their support networks, the multiple agents encountered, with their diverse forms of authority, can be intimidating and confusing. Understanding whom to speak with or where a particular agent's authority begins and ends becomes complex. Agents often rely on this confusion and blurring of roles, continually passing both those reporting and their supporters from one authority to another and back again, frustrating efforts at effective support when someone is detained.

Within Home Office policy, "removal windows" are used to notify those not currently in detention, typically by mail, that they face imminent removal from the country.[20] Under new Home Office policy instituted through the Immigration Act of 2014, asylum seekers can now be removed from the country without first spending a night in detention—that is, they can be taken immediately from their reporting event to an airport and removed.[21] In 2016 at the Festival Court Home Office building in Glasgow where reporting is conducted, the support group Roots to Return recorded two separate events of this immediate transfer to an airport. This new policy regarding removal windows has created concerns that the practice of immediate removal to an airport will become more common, severely reducing the ability to advocate for detained persons, who legally may still have a right of appeal.

Locating Sites of Reporting and STHFs in the United Kingdom

To date there is no comprehensive list of reporting locations publicly available, particularly one that includes police stations and their custody suites currently

in use. In March 2016 it was reported by HMIP that there are thirty-seven holding rooms across the country, classed as STHFs, predominantly at ferry terminals and airports. Eleven of these facilities are listed as being within reporting centers; however, the actual location of reporting centers is not provided, and the figure does not include the use of police station custody suites.[22] STHFs are typically small complexes of cells, used for immigration purposes, with the intention of holding persons for under twenty-four hours, and are thus classed as "non-residential," though at times they may hold persons for up to several days. There are two STHFs that *are* classed as residential however—Pennine House at Manchester Airport and Larne House in Northern Ireland—and are able to hold people for up to one week. As Stothard and Mollicchi, in their investigation of immigration detention in the United Kingdom, note, "Pennine House is mostly used to break up journeys between Dungavel IRC in Scotland and IRCs or departure ports in England, or for the short-term detention of migrants who were initially held in regional police stations or ports of entry without dedicated holding facilities."[23] Three of the thirty-seven STHFs are in France, due to agreements for juxtaposed controls between the two countries, situated in the ports of Calais and Dunkirk (as part of the 2003 Le Touquet Treaty) and in Coquelles near the entrance of the Eurotunnel (under the 1991 Sangatte Treaty). Tascor currently holds the contract to manage most of these facilities, except those at Cardiff, Bristol Airport, and Folkestone, which are run directly by Home Office staff.[24] Various organizations have stated concern over the lack of clear and agreed operating standards, particularly following reports of self-harm in STHFs and the death of a forty-three-year-old man from Pakistan at Pennine House residential STHF in 2013.[25]

An FOIA request submitted by Rob Stothard, a photographer who has documented the detention landscape in the United Kingdom, found that in June 2016 there were fourteen individual reporting centers located within Home Office buildings across England, Wales, Scotland, and Northern Ireland (see table 12.1).[26] The FOIA responses also stated that there are three "regions" where reporting is held in police station custody suites (listed as East of England, South Central England, and South West England). However, the location or number of police stations is not given (i.e., the South West was listed as one region with no further information, yet there are several police stations in use for reporting in this region). Furthermore, Stothard requested information on whether holding facilities were present at each reporting location. However, for the police stations listed (or regions where they are used), no information was provided on holding facilities. Several Home Office buildings used for reporting were also listed as not having holding facilities (Swansea, Cardiff, Middlesbrough, and Belfast; though on a subsequent FOIA request Belfast is listed as having facilities, and so its status remains unclear).

Closures and Relocations: Distance as Punishment, Disorientation, and Chaos

In recent years several Home Office buildings and local police stations have undergone closure in efforts to consolidate resources and cut costs. Such closures and relocations across the United Kingdom where reporting occurs are difficult to keep track of, however accounts from support groups as well as media reports can help us to piece some of these closures together. These closures are important to understand and record as relocations can be unsettling and result in those reporting having to travel significant distances while also introducing new pressures for families, friends, and groups that provide support.

In 2015, an example of such a closure and relocation was witnessed when the Home Office building in North Shields (Northumbria House), situated on the outskirts of the city of Newcastle in North East England, was closed, with all services conducted there relocated. Those dispersed to housing in Newcastle and its surrounds and reporting in North Shields are now required to report in the city of Middlesbrough, a costly journey that takes at least an hour and fifteen minutes by rail and includes a change of trains. In a somewhat strange turn of events, both migrant advocacy and anti-immigrant groups protested the closure, though for distinctly different reasons.[27]

In the city of Leicester in 2009, a twenty-five-mile solidarity walk was held to replicate the distance that many who are required to report in that region are forced to travel.[28] For those dispersed to Leicester, reporting is held in the East Midlands Home Office building in Loughborough. Other examples that have been highlighted by support groups include the closure of the aptly named Waterside Court Home Office building in December 2015 due to flooding, with reporting now dispersed to several police stations across the region; the relocation of reporting in Folkestone and Medway, both in South East England, to Becket House in central London; and those dispersed to Wolverhampton traveling more than thirty miles across the city of Birmingham to the Sandford House Home Office building in Solihull, located on the southern outskirts of Birmingham.

By locating each reporting center, at a police station or Home Office building, as well as closures and consolidations of such buildings and contrasting the findings with dispersal locations for asylum seekers forced to live outside of the Greater London area in order to receive housing support from the government, we may better understand the various journeys many are now being forced to make.[29] This includes the effect on their ability to remain compliant or on their eventual decision to return to a home or third country, as well as the difficulties that distant relocation creates for effective support and advocacy. Distance, whether inadvertently applied or not, has become a means of confusion and disorientation and thus a form of punishment through additional hardship and

creates a greater likelihood of noncompliance and subsequent risk of detention and deportation.[30]

Reporting as Mobility Control

Reporting can therefore be understood as a form of mobility control, restricting people's ability to travel or leave home for any significant period for fear of missing their reporting requirement, especially when coupled with electronic tags and curfews and limited financial support. Such measures, alongside the use of dispersal housing, fix people to knowable locations for the UK government and immigration authorities.[31] Those staying in government-provided housing must also stay overnight at this location, unless receiving express permission from the Home Office.

Those reporting will typically fall into one of several categories of support: self-sufficient or eligible to work (typically after more than one year awaiting a decision on their claim); Section 95 support (recognized as having an asylum claim and awaiting a decision, and thus eligible for financial support in the form of a prepaid card of £36.95 per week); Section 4 support (for "refused asylum seekers" classified as destitute by the Home Office); or ineligible for support and thus often destitute and with no recourse to legal employment. A crucial distinction for those required to report is the provision of a travel allowance, provided only to those who fall under Section 95 support, or, in the case of Section 4, under a separate provision, at the discretion of the Home Office.[32]

For those facing lengthy and often costly travel to their reporting location without travel allowance or other outside support, this can become an impossibility, with walking sometimes the only option. Those without travel support are typically also required to report most frequently, on a weekly basis, due to their high susceptibility to being deported. For those who are eligible to receive vouchers for their travel, they must know to ask an UKVI agent at their reporting event for the correct form or rely on the goodwill of an agent to notify them of this right. Therefore, it is likely that many go without support that they are entitled to, due to not knowing they are eligible or for fear of asking. Without access to travel funds, many rely on social networks to ensure they attend their reporting event: "I don't have any benefits, just help from one of my friends. Most of the time he is dropping me here, but he's getting fed up with it, because I'm not his kid or his brother! He's only a friend of mine. Now it's weekly [signing] you know."[33] For others who cannot find someone to drive them and cannot afford a bus ticket, walking is the only option, regardless of the distance to be covered or the weather: "I don't really know, I will have to walk. And now it's getting cold. It's a long distance from Frenchay [on the outskirts of Bristol] to here, it's very far. You don't know, maybe in a few days' time it's going to be snowing. It's difficult

for people to drive (in the snow), but it's even more difficult to walk!"[34] Some who are homeless sleep overnight wherever they can to break up the journey. For those with a disability or illness who cannot travel such a distance, they are faced with a lengthy permissions process from the Home Office to report by telephone, requiring a doctor's certificate, often only to be lost in Home Office paperwork and bureaucracy. An "exceptional need" request can be made for those deemed ineligible for Section 95 or Section 4 support, but they are frequently denied. For those with children—particularly who are attending school—or undertaking education at college or in English-language classes, the time spent in travel becomes a major disruption and source of further anguish: "I have a daughter aged 3 and she goes to school in [name removed] from 9am till 12pm. On my signing day she misses school, because I have to be at Patchway between 10.30am and 11.30am. From Easton [in eastern Bristol] it takes 1 hour 30 minutes each way. It is not possible for me to take her to school in [name removed], then go to Patchway and return in time to pick her up at 12pm. So she misses school. When I signed at Trinity Road [in central Bristol] she didn't miss school, because the journey was not so long" (S, Bangladesh).[35] Reporting is one of several technologies deployed by the Home Office to both track asylum seekers and fix people in place. Coupled with dispersal housing as well as electronic tagging for FNOs, often unfounded or illegal application of curfews, and the continued threat of rescinding already meager benefits, the essential requirement of attending a reporting event affects any sense of normality and daily routine in significant ways.[36]

Signing Support Groups: Solidarity and Accompaniment

Right to Remain, a UK-based human rights organization that works with people to establish their right to remain in the country, notes the importance of signing support groups in their online toolkit for those navigating the UK asylum system:

> Some people phone a friend when they are entering the reporting centre, with instructions for what to do and who to contact if they are detained. If the friend does not get a call within an hour or two to say they are safe, the friend can call their lawyer and/or support group if they have one. In some areas, local support groups have set up systems to help with this. The person going to report will check-in with the group first, who keep a record of everyone's contact details and emergency instructions of what to do if they do not come out. . . . A system like this can save valuable time: friends/supporters can start finding out exactly where the person is, what has happened, and what can be done to help straight away. A signing support system also means that the person going to sign knows people are looking out for them, and that there is a plan in place if things go wrong and they are detained. This can reduce the psychological burden of reporting/signing at the Home Office.[37]

There are several signing support groups of varying size and formality located across the United Kingdom, though no definitive list of active groups exists and no overall network is in operation allowing these groups to connect and share best practices. In the city of Leeds, for example, a No Borders group calls people before and after their reporting event to determine if they have been detained, while other groups meet with and directly accompany people when they report.[38] Furthermore, there is no set practice in how signing support groups operate, and such support may not be distinguished as separate from an existing charity or local refugee support organization. Support groups also span a diverse ideological spectrum, from local church groups to explicitly abolitionist and no borders movements. As described above, however, the key elements of support come in the form of accompaniment and/or organizing once someone has been detained, though legal advice is not given by these support groups.

It is the moment between being detained within an STHF or custody suite at the reporting location and being transferred to an IRC, typically within the space of several hours, that is essential in providing solidarity and advocating for the person detained. If the person is known to the support group, efforts can be made to contact the individual within the holding facility, through notes passed on via police, Home Office, or private security staff, though such efforts are entirely dependent on the authorities' willingness to cooperate. Support groups will often have securely stored details of those they accompany and so can often contact family members and friends or legal representatives to begin the process of legal support immediately. Support groups can also contact the Home Office in efforts to determine which IRC the person will be transferred to, though not always with success. Clothes, medication, and other vital items can also be collected and passed on from the front desk to the holding facility. This is often the only opportunity to get such items to the person, as the detainee may not be accepted at the IRC or may take several days to get there, again relying on the cooperation of officials at the front desk of the Home Office facility or police station.

While a detention will happen in a matter of seconds, any supporters present can also reassure the person in a moment of exceptional distress that he or she will be supported. A flash campaign can also be mobilized to take place outside the Home Office building or police station, and other strategies may be deployed to frustrate Immigration Enforcement in their efforts to remove the person to an IRC. More often, though, it is recognized that alerting legal representatives and/or family members and friends and determining where someone will be transferred is more effective and essential in this moment. With the detained person's permission, campaigning tends to happen in the following days and weeks (and sometimes months) following transfer to an IRC.

While solidarity provided through accompaniment and advocacy conducted in events of detention and transfer to IRCs across the United Kingdom is often crucial, the presence and operation of such groups, coupled with occasional

dialogue with authorities, can potentially result in an improved efficiency for the Home Office and its UKVI agents. Signing support groups, through their presence, may ultimately aid compliance through providing a level of comfort (albeit small) for those attending their reporting event. In some instances for the Bristol-based support group, UKVI officials would ask volunteers to summon people reporting who may be hesitant that day to come inside the police station or ask volunteers to notify certain individuals if they had missed their reporting that week. Volunteers would typically ignore such requests; however, it became evident that the UKVI agents were aware they could potentially coerce support groups to aid compliance. Noncompliance in the eyes of the UKVI and Home Office presents a significant risk for asylum seekers, often resulting in a discontinuation of financial and housing support and potentially detention at an IRC, leading to deportation to a home or third country.[39] However, compliance *also* places persons at such risk, by fixing their location and constraining their mobility through attending regular reporting events.

Bristol Signing Support: Fighting the Relocation of Reporting

In Bristol, the Signing Support group developed from a direct request by asylum seekers who are members of the local support organization, Bristol Refugee Rights (BRR), a user-led service based at the Malcolm X Community Centre in central Bristol. Those who were required to sign were looking for people to accompany them, due to fears of being detained without notice. Signing Support began accompanying members of BRR in 2011, but also "with a view to challenge the reporting (or signing) conditions which often appeared arbitrary, unfair and a cause of great stress, and in some cases illness."[40]

Bristol is a major dispersal site for asylum seekers in the United Kingdom, but is also notably a City of Sanctuary.[41] Until October 2014, reporting was held twice weekly on Tuesdays and Wednesdays at the Trinity Road Police Station in central Bristol, which was conveniently located adjacent to the BRR office. While the Home Office has a large facility in the nearby town of Portishead, several miles west of Bristol in Somerset County, it was deemed not suitable for reporting due to its location and facilities. The Home Office does, however, station Immigration Enforcement agents and vehicles at this location, which has been the site of direct actions by local No Borders groups to prevent dawn raids.[42]

While the Bristol City Council proudly maintains that it is a City of Sanctuary, detentions regularly take place at Trinity Road Police Station. The station is an unremarkable and run-down building, with cramped conditions in the reception area. Volunteers with the Signing Support group are forced to stand outside while awaiting those they accompany, with reporting sessions occurring twice weekly between eight thirty in the morning and twelve thirty in the afternoon,

FIGURE 12.2. Bristol Signing Support and other groups protest outside Trinity Road Police Station in central Bristol following the detention of eight people in one reporting event in 2012. SOURCE: Bristol Dignity for Asylum Seekers. Photo by Rob Stothard.

as well as on Thursdays once every three months. In one instance in 2012, eight persons were detained and transferred to an IRC during a single reporting session. The Signing Support group and the local No Borders group held a flash protest outside the police station (see figure 12.2), while one person required to report reflected, "I [was] really feeling sad when I heard what happened. Bristol is a City of Sanctuary but it is not safe for asylum seekers. We are feeling unsafe, nervous and stressed when we go to sign at the [Trinity Road] police station" (E, Kurdistan).[43]

In 2014 it was confirmed that the Trinity Road Police Station would have its holding cells mothballed and its opening hours curtailed significantly, in efforts to cut costs, but also following the announcement of a new regional police "super center" to be opened in Patchway, located seven miles north of Bristol in South Gloucestershire.[44] Patchway is a mix of suburban development and industry, including sites for large defense industry contractors such as Boeing, while all Home Office–provided dispersal housing is at least three miles from the police station, resulting in lengthy, confusing, and costly journeys for those reporting. Following the announced relocation, the Compliance and Enforcement Team within the Home Office South West Division (based in Portishead) provided limited information and only in English regarding how to access the new police station and further suggested that the Signing Support group should provide translations.

Since the relocation took place, a myriad of difficulties have arisen for both those reporting and their support networks. Most of these difficulties came as

little surprise, with such concerns being relayed to the Home Office before the relocation occurred. This also involved an almost unanimous vote by the Bristol City Council to keep reporting in central Bristol—following Signing Support and BRR bringing it to their attention, with many elected officials being unaware reporting was a requirement for members of their electorate or that it even existed in Bristol—with only one councilor voting against the proposal. Perhaps unsurprisingly, this standalone vote came from former councilor Michael Frost, the first ever elected council member in Bristol from the UK Independence Party (UKIP), which runs its campaigns almost entirely based on an anti-immigrant stance and is seen as a major factor behind the Brexit referendum vote, promising increased control over the UK's borders and decision making over the acceptance of asylum seekers.

The move also presented significant difficulties for the Signing Support group. Over several years at the Trinity Road Police Station the group had slowly begun to form agreements with the Avon and Somerset Police (who have jurisdiction for the city of Bristol) and had successfully convinced its senior members to engage with the Home Office, resulting in improved advocacy work by Signing Support. This hard-fought ground—even if such a level of close engagement with authorities was not always supported by all members of the group—was lost immediately, as Patchway is located under a different police jurisdiction. Furthermore, front desk police staff were unfamiliar with the support group and had not engaged with asylum seekers before, leading to further mistreatment, including the purposeful locking of the public toilet facility within the police station when reporting is conducted. Agreements and rapport were also lost with the custody sergeant, in charge of the holding facilities, a vital line of communication and enabler of effective advocacy during a detention. Additionally, recruiting of new volunteers, already difficult when reporting was in central Bristol, became harder due the distance expected to be traveled and with no effective networks in the Patchway community, where migrant rights and support organizations do not exist.

At the end of the first three months of operation at Patchway, the Home Office supposedly conducted a review of the suitability of the location. Evidence suggesting it was not suitable was compiled by Signing Support and BRR and submitted to the South West Immigration Compliance and Enforcement Team of the Home Office, including testimony from those who had previously reported at Trinity Road in Bristol and were now traveling to Patchway. The Home Office found that the difficulties were not sufficient to return reporting to central Bristol, though it noted that many reporting, particularly families, now had their reporting requirements adjusted from monthly to six-monthly to reduce the frequency of travel. However, many faced ongoing hardship and anxiety following the 2014 relocation of reporting to Patchway: "I am a mother of four children and I have been signing for one year and a half. It often takes me two hours to get to Patchway with the bus. I am always worried when I go

to signing. I have been detained twice before. I always think about the [UKVI] people at the [front] desk, what are they going to say, what are they going to ask, what are they going to do? It is scary seeing them" ("D").[45] Another lamented the relocation and their inability to afford the travel: "Before, I could walk to Trinity in five minutes, and I signed once a month. Now I have to sign every two weeks at Patchway. I don't have NASS [National Asylum Support Service] support so I have no money for a bus ticket [which costs £4 for a return]. It is six or seven miles to Patchway. I have a problem with my ankle and it is too far to walk. My friends have to help me to get there. My [asylum] case is ongoing so I should have NASS support [Section 95]" (E, Ivory Coast).[46] Campaigns were also launched in the lead-up to the relocation and following the opening of the new police station, when reporting resumed, under the slogan "A Long Walk to Patchway." The campaigns involved information nights at community centers, media engagement, online petitions, and protests and information flyering in central Bristol, as well as attending council meetings.

Much of the campaign consisted of direct involvement from current and former asylum seekers living in Bristol and was coordinated by the Bristol-based advocacy group Dignity for Asylum Seekers. Demands were made not only to return signing to central Bristol in the immediate term but also to reduce reporting frequency, to hold it in locations without detention facilities, and ultimately to end reporting all together. During the three-month review and the campaign, the Signing Support group was warned that if any of its volunteers were seen by police to be involved in protesting the group would subsequently be banned from entering the police station when accompanying individuals and families to report.

Ultimately, following the continued campaigning and lobbying, reporting was still relocated by the Home Office, and several years later there is no indication it will return to central Bristol. Meanwhile other regions and support groups in the United Kingdom are experiencing similar closures and relocations. At Patchway, several persons—who had requested the support of the signing group previously—expressed their gratitude that volunteers had continued to be present for each reporting event. Yet there was recognition by both those reporting and volunteers with Signing Support that efforts to return reporting to central Bristol and calls to end the practice altogether had come essentially to nothing. The system remained in place, now coupled with a heightened risk of noncompliance and several additional hardships, economic, psychological, and physical.

Locating and Challenging Systems of Mobility Control while Providing Practical Solidarity

This chapter has situated the use of reporting as a specific component within a broader range of border and mobility policing technologies employed by the

UK Home Office against asylum seekers. Reporting constrains people's mobility, at a local and everyday scale, within communities across the United Kingdom. These sites of control are directly connected to the creation of a condition of deportability and to the vast infrastructure of detention. The requirement to report disrupts daily life and psychologically affects many due to the anxieties related to being detained and deported: reporting centers therefore can be understood as sites of disappearance and significant trauma.

There are several productive steps that can be taken toward providing effective solidarity and working to abolish the various impacts of reporting on those seeking asylum. Most important is to allow the voices and demands of those most affected to be heard and to ask how they can be supported. During the campaign to return reporting to central Bristol, several current and former asylum seekers involved made clear demands that relocation or reduced reporting requirements were not sufficient and that only a complete end to reporting would circumvent the associated trauma of such a process while awaiting a decision on their appeal.

As chapter 16 details, initiatives such as sanctuary cities and similar efforts to create welcoming and safe cities for asylum seekers and refugees must also be held to account and pushed to do more in providing meaningful solidarity. What is achieved by the designation of being a sanctuary city when reporting and subsequent detention and disappearance of members of the community happens on a regular basis? Or when home and workplace raids are frequently conducted in these supposed spaces of sanctuary? The concerted efforts of anti-raid networks, which actively seek to disrupt such practices by the Home Office and its Immigration Enforcement teams, are an example of meaningful push-back and direct resistance.

Although not all reporting support groups espouse an explicitly abolitionist or no borders ideology, they provide much-needed solidarity in response to a relatively invisible and unknown form of mobility control within local communities. It is important to recognize, however, that these groups can inadvertently aid the process of reporting for immigration authorities and that many of these practices of solidarity do not ultimately challenge the systems employed by the Home Office. It is therefore necessary to ask how we might meaningfully promote forms of solidarity that do not place people at further risk, but that also contribute toward dismantling such systems. Reporting support groups must therefore carefully address their position in relation to enforcement agencies. Engagement with authorities to establish memorandums of understanding or protocols, for example, must also be critically reflected on: are these leading toward a more progressive goal of ending reporting and detention or merely softening the edges of a particularly harmful system?

A vital step for groups working with those required to report is to form a more cohesive network, both regionally and nationally. Information sharing surrounding strategies of effective solidarity and in working toward a better

understanding of the operation of the Home Office and related authorities is essential. In speaking with several support groups across the United Kingdom, I found that most were unaware of others' existence or lacked vital knowledge that was taken for granted by other groups. Efforts to locate these relatively obscured places of detention and disappearance are also needed to allow more cohesive action. Importantly, such a network can identify areas where support is needed and provide resources to allow new groups to form, while working to develop effective strategies for solidarity and abolition.

NOTES

1. UK Visas and Immigration, "About Us: UK Visas and Immigration," https://www.gov.uk/government/organisations/uk-visas-and-immigration/about.

2. "Her Majesty's Inspectorate of Prisons for England and Wales (HM Inspectorate of Prisons) is an independent inspectorate which reports on conditions for and treatment of those in prison, young offender institutions, secure training centres, immigration detention facilities, police and court custody suites, customs custody facilities and military detention." UK Inspectorate of Prisons, "What We Do," https://www.justiceinspectorates.gov.uk/hmiprisons/about-hmi-prisons/.

3. Chris Boran, "My Local Border Post," *Border Criminologies Blog*, January 20, 2014.

4. The author volunteered with Bristol Signing Support—a support group for asylum seekers required to report in Bristol, in South West England—on a weekly basis in 2013 and 2014. More information on the group can be found here: UK Home Affairs Committee, "Reporting Regime Submission," http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/71/71vw32008_HC71_01_VIRT_HomeAffairs_ASY-64.htm; and here: Bristol Refugee Rights, "About Us," http://www.bristolrefugeerights.org/about-us/.

5. Ines Hasselberg, "Coerced to Leave: Punishment and the Surveillance of Foreign-National Offenders in the UK," *Surveillance and Society* 12, no. 4 (2014): 472; see also Ines Hasselberg, "Reporting to the Home Office: Control, Risk and Insecurity," *Border Criminologies Blog*, May 11, 2015; Ines Hasselberg, "An Ethnography of Deportation from Britain" (PhD diss., University of Sussex, 2012); Axel Klein and Lucy Williams, "Immigration Detention in the Community: Research on the Experiences of Migrants Released from Detention Centres in the UK," *Population, Place and Space* 18 (2012): 741–53.

6. Ines Hasselberg, "Coerced to Leave," 472.

7. Klein and Williams, "Immigration Detention in the Community."

8. Jonathan Darling, "Domopolitics, Governmentality, and the Regulation of Asylum Accommodation," *Political Geography* 30, no. 5 (2011): 263–71.

9. Alan Travis, "Immigration Bill: Teresa May Defends Plans to Create 'Hostile Environment,'" *Guardian*, October 10, 2013; Stuart Crossthwaite, "They Want Us to Imprison and Deport Ourselves," *The Justice Gap*, November 2015.

10. John Grayson, "Meet the UK's Latest Weapon Against Organised Crime and Asylum Seekers," *Open Democracy UK*, March 16, 2015.

11. Detention Action, "Without Detention: Opportunities for Alternatives" (London, 2016), 21.

12. Bristol Dignity for Asylum Seekers, "Press Release: Council Debate Whether to Support Campaign and Bus Stop Solidarity Demonstration" (December 16, 2014).

13. UK Visas and Immigration, "Return Home If You're in the UK Illegally or Have Claimed Asylum," https://www.gov.uk/return-home-voluntarily/voluntary-return.

14. Toni Guillot, "Asylum Seeker Reporting Centre to Be Opened in Central Middlesbrough," *Gazette Live*, November 19, 2014.

15. Grayson, "Meet the UK's Latest Weapon."

16. The Migration Observatory, "Immigration Detention in the UK" (May 2, 2017).

17. Nick Gill, "Governmental Mobility: The Power Effects of the Movement of Detained Asylum Seekers around Britain's Detention Estate," *Political Geography* 28 (2009): 186–96.

18. Nicholas De Genova, "Migrant 'Illegality' and Deportability in Everyday Life," *Annual Review of Anthropology* 31 (2002): 419–47.

19. Michael Brown, "North Shields Immigration Office Closure Sparks Foreign Criminal Fears," *Chronicle Live*, June 5, 2015.

20. Darling, "Domopolitics."

21. Lotte Lewis, "Removal Windows, Injunctions and Out of Country Appeals: The Acceleration of Enforced Removals" (Free Movement UK, November 21, 2016).

22. Her Majesty's Inspectorate of Prisons, "A Review of Short-Term Holding Facility Inspections, 2011–2015" (March 2016).

23. Rob Stothard and Sylvia Mollicchi, "Removal: A Short Guide to the UK's Immigration Detention Estate, 2015–16" (2017), http://robstothard.com.

24. Stothard and Mollicchi, "Removal."

25. Stothard and Mollicchi, "Removal"; Immigration Law Practitioners Association, "ILPA Comments on the Draft Rules for Short Term Holding Facilities" (April 14, 2016).

26. Home Office reporting centers listed in the FOIA are Becket House, London; Lunar House, Croydon; Eaton House, Hounslow; Middlesbrough Reporting Centre, Middlesbrough; South Yorkshire Reporting Centre, Sheffield; Waterside Court, Leeds; Swansea; Cardiff; Drumkeen House, Belfast; Festival Court, Glasgow; Dallas Court, Salford; Capital Building, Liverpool; East Midlands, Loughborough; Sandford House, Solihull (Freedom of Information Access Request No. 39885, July 5, 2016). While Waterside Court in Leeds was listed in the FOIA, this location was closed in December 2015 due to flooding and reporting is now conducted at police stations in the region, including Weetwood police station, in the northern outskirts of Leeds.

27. Brown, "North Shields Immigration Office Closure."

28. "Walkers to Show Solidarity with Asylum Seekers," *Leicester Mercury*, October 27, 2009.

29. Darling, "Domopolitics."

30. Ashish Patel, Nigel Balmer, and Pascoe Pleasance, "Geography of Advice Seeking," *Geoforum* 39 (2008): 2084–96; Nick Gill, *Nothing Personal? Geographies of Governing and Activism in the British Asylum System* (London: Wiley-Blackwell, 2016), 76–106; Nancy Hiemstra, "You Don't Even Know Where You Are: Chaotic Geographies of US Migrant Detention and Deportation," in *Carceral Spaces: Mobility and Agency in Imprisonment and Migrant Detention*, ed. Nick Gill and Dominique Moran (London: Routledge, 2016), 57–76.

31. Jonathan Darling, "Another Letter from the Home Office: Reading the Material Politics of Asylum," *Environment and Planning D: Society and Space* 32, no. 3 (2014): 484–500.

32. UK Visas and Immigration, "Asylum Support, Section 4 Policy and Process" (n.d.). The provision states: "Support is available to enable refused asylum seekers who receive section 4 support to travel to meet reporting requirements where a person has to travel more than three miles. An asylum seeker who is unable to travel that distance, for example, in the later stages of pregnancy, can apply to the Home Office to reduce the frequency of reporting or to report to a local police station. A person receiving section 4 accommodation can ask to be moved nearer to the reporting centre by writing to their reporting centre."

33. Interview with author, Patchway police station, December 2014.

34. Interview with author, Patchway police station, December 2016.

35. Bristol Dignity for Asylum Seekers, "Press Release."

36. Catrin Nye, "Unlawful Immigration Curfews under Government Review," *BBC News*, November 4, 2016.

37. Right to Remain, "Toolkit" (n.d.).

38. Leeds No Borders, "Signing and Detention Support Project" (n.d.).

39. UK Home Office, "Discontinuing Asylum Support after Failure to Report with an ARC" (October 2016).

40. UK Home Affairs Committee, "Reporting Regime Submission."

41. Bristol City of Sanctuary, "Bristol City of Sanctuary" (April 2, 2018).

42. "Protest at Deportation Dawn Raids," *BBC News*, February 12, 2008.

43. Esam Amin, "Eight Detentions Is Too Many" (Bristol Dignity for Asylum Seekers, July 31, 2012).

44. "Bristol Asylum Campaign Growing over Signing-in Relocation," *BBC News*, December 17, 2014.

45. Anonymous, "It Is Scary Seeing Them" (Bristol Dignity for Asylum Seekers, November 24, 2014).

46. Claire Hall, "Long Walk to Patchway" (38 Degrees, 2014).

CHAPTER 13

Radical Migrant Solidarity in Calais

NATASHA KING

I'm sitting in a squat in Calais. It is an old residential house on a fairly busy street. I am in the living room. It is warm, but dark, the boarded-up windows shutting out the daylight. This room is the main thoroughfare of the house. It is filled with a continuously changing group of people: a mix of solidarity activists like me, some young men who are in the city to try to cross to the United Kingdom without papers and who, being injured or unwell are here to rest, and often, an Eritrean woman and her young son, who commands the attention of whoever is there. From the upstairs living spaces it is possible to hear women chatting. There are perhaps forty women living there, mostly from Eritrea or Ethiopia, who make up the majority of the residents here. In the next room a group of them are cooking, joking, laughing. The house is full, but the atmosphere is quiet and peaceful. I cherish this peace, because the nights are often very different. Sleeping lightly on a sofa, I had spent the previous night watching the door—letting residents in and out, throughout the night. That night had been a fairly normal one, with long periods of quiet broken by sudden flurries of activity. Most of the residents had left after dark to try to cross to the United Kingdom, and had returned in small groups throughout the night. A small group of drunk men had gathered outside, chatting, with continued requests to access the house, despite the common knowledge that they cannot come in. In the middle of the night, a man had arrived with a leg injury from his attempts to get into a truck and cross to the United Kingdom. After a few rushed calls, some people had come to take him to the hospital. It was, in all, a sleepless night.

For eight months in 2013–14 this squat—known as Victor Hugo after the street where it was located—was home to an ever-changing group of solidarity activists, women trying to cross to the United Kingdom, their children, and a number of sick and vulnerable people without papers. It housed around sixty people in that time, and was the only indoor space with running water and electricity that people trying to cross had access to. It wasn't beautiful. Life there was

often extreme: mundane and chaotic in equal measure. And yet, many beautiful things happened there too. It brought different people together, and was a center of communal support in meeting people's everyday needs in a place that sought to exclude many of us in every respect. It reached out beyond its boundaries and involved local neighbors and charitable groups. It was a place ultimately defined by the numerous micro kindnesses and moments of sharing that happened there. Many were changed by the experience of that place.

I was a visitor to Victor Hugo, staying just a few weeks, and yet it changed me too. For all its challenges and failures, Victor Hugo was ultimately inspiring because it was an experiment in collaborative community building, which I argue is central to a radical antiracist praxis of solidarity between people who are struggling for the freedom of movement.[1] This chapter uses this example to explore what being an effective ally in these struggles means and looks like, and why I think collaborative community building is so central to that.[2] To the extent that this practice also brings us face-to-face with the ways that inequalities in race and gender (in particular) play out in our daily lives, the chapter also poses a question: how do those of us who self-define as allies negotiate the interacting and multiple axes of oppression and privilege that come up in these struggles?

The chapter proceeds as follows. I start by laying out some of the key arguments that resonate with the idea of borderlessness within critical migration scholarship. Both the autonomy of migration approach and how the autonomy of migration plays out, as the mobile commons, think about mobility from the perspective of movement rather than control. Practicing autonomy from the border regime primarily concerns people who move without permission. But acts of borderlessness are not carried out by, or the concern of, only such people. I argue that participating in the mobile commons is one way that people in solidarity with the freedom of movement can and do effectively contribute to this struggle for autonomy. Indeed, there are countless other people making moments or spaces of autonomy that overlap with and form a part of it. I then move on to explore some of the perspectives of the group Calais Migrant Solidarity that I think express a praxis of borderlessness, before moving on to look at the group's involvement in Victor Hugo in more detail. I conclude by considering some of the dilemmas this practice raises for those who wish to be allies to freedom-of-movement struggles.

The Autonomy of Migration as Experiments in Borderlessness

The idea that people who move without permission actively affect the border control regime (and are not just passive victims swept up in its wake) has been

a central tenet of the autonomy of migration (AoM) approach. A marginal but influential body of critical scholarship, the AoM approach has come out of conversations over the past fifteen or more years between activists and scholars who have participated in, reflected on, and shaped those struggles.

There have been other, more thorough summaries of the approach to date.[3] For the purposes of this text, AoM asserts that mobility is a social fact, something inevitable, and a legitimate and common strategy.[4] People move all the time, regardless of state opinion or intervention.[5] This "inappropriate" or unauthorized movement, this "escape" or "line of flight" from control, brings about change in the logic of the border regime.[6] In that, human mobility is a *creative* force that continually reshapes a border regime that seeks to capture and discipline it.[7] It is an assertion of autonomy from dominant social reality/the state, a kind of borderlessness.

Despite being fundamentally at odds with dominant ways of being, these practices of escape are rarely abnormal, spectacular, heroic, or utopian. They are more often everyday practical attempts at direct action by people seeking to "reclaim" what was theirs all along: their freedom to move. Yet at the same time they amount to a social force—that of autonomy—that is bigger than the sum of these individual strategies for staying mobile.[8] These strategies create a realm of activity within which this force, these "other ways of being" to the state, is created. The mobile commons is this realm of activity. It is organized, out of necessity, largely through nonhierarchy and equality, and functions as a means through which people can pursue the freedom of movement. Dimitris Papadopoulos and Vassilis Tsianos describe it as "the innumerable uncoordinated but cooperative actions of mobile people that contribute to its making. People on the move create a world of knowledge, of information, of tricks for survival, of mutual care, of social relations, of services exchange, of solidarity and sociability that can be shared, used and where people contribute to sustain and expand it."[9] The mobile commons circulates knowledge on moving or staying. It includes infrastructure to make those things possible (places to stay, routes for crossing, various informal economies). It reaches beyond people on the move to solidarity movements. Finally, it expresses a "politics of care," a gift economy of cooperation and friendship.[10] It is not a utopian vision that relies on the participation of virtuous beings.[11] Rather it is a realm that people who move without permission often have to engage in as the most efficient way of advancing their strategies in situations of extremely limited resources and high vulnerability. It is not dependent on a particular place, nor owned or attributed to any individual or group. It is accessible to anyone by virtue of their participation, and only exists through their collaboration. For all these reasons it is a commons.[12] It is a resource, not for getting by within the state, but for getting by outside of it.

The Thread of Autonomy beyond the Struggle for the Freedom of Movement

Strategies of imperceptibility and escape are just one part of the struggle for the freedom of movement that often also includes more intentionally visible activities such as claims to rights and representation (through protest, for example).[13] Although such activities can transform the border regime, I focus on this invisible part of the struggle because of its potential to create *new social realities* to that of the border regime, through autonomy. This autonomy from the border regime primarily concerns and involves people who are escaping from systems that seek to discipline/control their movement. But those of us who "benefit" from the border regime by being included in it—citizens, Europeans—have a part to play in nurturing the mobile commons too. And people do. The mobile commons extends beyond the people who move without permission (who make up the majority of this struggle) to include various movements of solidarity, many of which are also carrying out their own experiments in autonomy/borderlessness. Indeed, the autonomy of migration is connected to a vast multitude of different experiments in getting by outside of the state that are *at least* as old as borders are.[14] These struggles are diverse—from specific border focused resistances such as No One Is Illegal or No Border Networks to various experiments in living "beyond" the state through squatting land and buildings, free parties, open-source communities, and people's kitchens—but share the fact that they seek out and express an autonomy from dominant social reality, of which the border regime is a part.[15] They are what Richard Day labeled the newest social movements: "those crucibles of human sociability and creativity out of which the radically new emerges: racialized and ethicized identities, queer and youth subcultures, anarchists, feminists, hippies, indigenous peoples, back-to-the-landers, 'deviants' of all kinds in all kinds of spaces."[16] Within this diversity, autonomy can be thought of as a thread that connects these struggles together.

This thread is also present in the way Engin Isin conceptualizes critical citizenship, as including acts of *unmaking* citizenship by those who hold it (as well as acts of making by those outside of its current realm). His notions of activist citizenship, or of "citizens without frontiers," describe practices that radically reconfigure the meaning of political belonging by creating new political subjectivities through transformative action (or activism).[17] They point to how citizenship is not just about people who are already citizens performing existing citizenship scripts but is reconfigured by all who contest its meaning and boundaries.[18] Here, transforming the border regime involves people with and without papers, encapsulated by the idea that the "citizen without frontiers" is someone who transverses or subverts frontiers in the broadest sense and is not defined by whether the individual moves or not or has papers or not.[19] We are all implicated in and responsible for fighting for liberation from the systems that control mobility. We are, as Nicolas De Genova contends, "of the connections."[20]

AoM argues that both people with and those without papers are part of this struggle for the freedom of movement. Calais Migrant Solidarity is a group that demonstrates what this abstract claim means on the ground in the way it prioritizes seeking autonomy from the border regime, within the mobile commons. Let me now turn to look at this group in more detail.

CMS and Solidarity with the Mobile Commons

The recent history of struggle in Calais (by which I mean the past twenty-five years) has seen numerous examples of collaborations between people with and without papers within the mobile commons, from living together in jungles and squats to standing together in protest against the border regime and making parties. Within that, perhaps the people who have prioritized participation in the mobile commons most explicitly have been those connected to the No Border movement, which in Calais is the group Calais Migrant Solidarity.

Calais Migrant Solidarity (CMS) has been active in Calais since 2009 and organizes and speaks in solidarity with freedom-of-movement struggles in that city. Beyond this, perhaps the most obvious or indeed only thing that people connected to the group share is that nobody involved in the group came to Calais to try to cross to the United Kingdom clandestinely.[21] Over time, people connected to the group have witnessed the changing politics of the border and the changing strategies of free movement. They are a part of the "diverse forms of transnational communities of justice" that are a part of the mobile commons.[22]

The group is extremely loose-knit, but can be said to coalesce around a broadly anarchist perspective toward the border, interpreting the affirmation of the freedom to move and to stay as a demand for the end to all borders and states.[23] What also marks the group is an orientation toward autonomy and against domination, through a praxis that combines direct forms of resistance to the state with *prefigurative* practices that seek to escape it.[24] Here, prefiguration means taking action in the present to undermine borders in practical—perhaps partial, perhaps temporary—ways. To the extent that the mobile commons describes a realm that to some extent represents autonomous spaces or moments "outside" of the state, CMS sees participating in the mobile commons as politically crucial.

Participating in the mobile commons has meant questioning what it means to be an ally to these struggles. The term "ally" is often used differently and, for some, is a controversial and negative term.[25] For me, it represents a stance that weaves struggles together. By that I mean a way of acting that combines taking action to fight for one's own liberation, while standing side by side with others in their struggle. The term acknowledges the effects that structural differences have on our lives, and what struggle is for us. At the same time, it expresses a

desire to reach across those differences and share something. Other terms such as "friend," "accomplice," and "conspirator" convey similar meanings, but with different nuances. As one member of the group put it, "It's a form of solidarity, not a paternalistic charity. Not something where people treat the subjects of the solidarity activism as people who need to be mollycoddled and controlled and stuff. It's about spending time with people, migrants, refugees, asylum seekers. Working with them, organizing with them, living with them."[26] This perspective has meant that people connected to CMS have often participated in forms of direct action with people on the move that have challenged existing hierarchies and forms of representation. So although people connected to CMS have participated in numerous demos, marches, strikes, sit-ins, occupations, and blockades, they have also prioritized everyday practices of equality that undermine the ways that borders, as manifestations of domination and inequality, weave into our relationships with each other.

My understanding of being an ally has come about through my involvement in CMS and the numerous discussions members of the group have had on structures of domination (such as race, class, and gender) and what solidarity means in all of that. People have varying interpretations, but there is common ground in a critical perspective toward what being an ally means that takes seriously the idea that those directly affected by the border take an active part. This perspective has been shaped by the confluence of debates in activist scenes, particularly from other black liberation struggles and reflection on the ground. It expresses a radical antiracism that starts from acceptance that a vast history of systematic killing, abuse, and neglect of black people has been justified and premised on colonial legacies that produced race as a subjectivity of superiority and inferiority.[27] As Finn Feinberg states, "White bodies are to be cared for and coddled, while nonwhite and especially black bodies are assumed to be criminal, expendable, and not to be trusted. Without consciously and intentionally bucking against this logic, black deaths—be they psychological, physical, slow, or fast—will remain the norm, and will make any attempt at insurrectionary or revolutionary activity smack of insincerity and history lessons unlearned."[28] Beyond this, the contemporary antiracism of groups like CMS expresses an intersectional approach that does not just think, talk, or act in terms of "race" (or only in response to class concerns or only with regard to gender issues for that matter) but approaches the struggle against white supremacy/privilege as woven into a struggle for human liberation on all fronts. One example of the way that people connected to the group take an intersectional approach to their antiracist work is the zine "Some Thoughts on Gender in the Calais No Border Context," which incorporated numerous different contributions from across the network and reflected on issues of race and gender within activism in Calais.

Liza McKenzie, in her thoughtful and powerful posts on the blog *Black Girl and Dangerous*, raises the importance of going beyond just acknowledging white

privilege and taking action: "The truth is that acknowledging your privilege means a whole lot of nothing much if you don't do anything to actively push back against it. . . . The bottom line here is that if you acknowledge your privilege and then just go ahead and do the same things anyhow, you have done absolutely zero things differently from people who don't acknowledge their privilege at all."[29] For McKenzie, pushing back against privilege involves relinquishing the power people get through having white skin: actively making space for people of color to speak and be heard, being together with people of color in the struggle against racism and together, taking action in ways that value their experiences and are based on *that* knowledge and experience.[30] This last point is not just about blindly following others or unquestioningly agreeing. It is about saying that the social force of those oppressed directly by the border regime *matters* and that listening to their voices and opinions *matters*.

Chris Crass describes this push back against privilege as abandoning "whiteness."[31] I find the idea of abandoning whiteness problematic. Are we ever able to simply step out of the meanings attached to our subjectivity that abandonment implies? Yet at the same time I find it a useful idea because it advocates a practice that attempts to actively create a different social reality where the everyday ways that white privilege are enacted are undermined. In relation to freedom-of-movement struggles, it is a perspective that demands we—by which I mean those of us who benefit from the border regime—take responsibility for ourselves and push back against our complicity in the border regime, through action.

The idea of abandoning whiteness is mirrored by the more abstract concept of "becoming minor" in the work of critical theorists Gilles Deleuze and Félix Guattari.[32] Becoming minor is not the same as "minority," which is defined in opposition to a (superior) majority.[33] To put it in the terminology of Deleuze and Guattari, becoming minor is rather a "deterritorialization" of identity, a decoupling of identity from fixed markers. It's a becoming and not a being, a movement *between* locations that does not express one fixed subject that has "become."[34]

This notion of deterritorialization is mirrored in Harsha Walia's description of antiracist praxis as a form of decolonization. She describes decolonization as "a willingness to decenter oneself, and learning and acting from a place of responsibility rather than guilt. . . . Decolonization requires us to exercise our sovereignties differently, and reconfigure our communities based on shared experiences, ideals, and visions."[35]

Deterritorialization, or becoming minor, is a process, a journey to the margins. It is about making life from the outside of dominant social reality. It has been described as a form of exile and disassociation from dominant social reality and is another expression of autonomy from it.[36] Like the concept of escape described earlier, becoming minor is not a substanceless philosophical concept but refers to practical action. It means being and living in ways that are generally

considered deviant, unacceptable, or abnormal by dominant social reality. I am not suggesting that this otherness is some kind of heroic state of being. Or that if the white folks show up then this outsiderness will be imbued with a value that is acceptable to dominant social reality and can be assimilated by it (although recuperation through appropriation is common and is a risk). It is not about replicating colonialism but about valuing abject moments or spaces and becoming abject in the process. It comes from recognizing that our struggle to push back against privilege is about becoming "other." It is not about how the excluded can come to value being from the outside, but how people, regardless of what oppressions or privileges they carry, can come to make a life of equality together.[37]

These scholars are describing inherently collaborative practices that are rooted in sharing everyday experience, practices that rest on listening, learning and sharing, taking time, and building friendships.[38] People connected to CMS have sought to put these perspectives into practice in numerous ways. In addition to participating in numerous demos, marches, strikes, sit-ins, occupations, and blockades and documenting police violence in the city (something that has been a continual focus), people connected to the group have also prioritized living together with people denied the freedom of movement, whether that has been in the form of small, intimate living spaces such as private squats or communities within large and anonymous jungles.[39] I turn now to a particular example of such a collaborative community: the squat on Rue Victor Hugo.

Collaborative Community Building: The Squat on Rue Victor Hugo

The squat on Rue Victor Hugo existed from September 2013 to May 2014. It was originally occupied by a group of CMS activists, and the aim was to create a shared space for organizing and a sleeping space for vulnerable people and people active in CMS. Being one house open to a population of homeless people in excess of four hundred—a population that was growing and increasingly containing families, women, and children—it was hugely overextended and unsafe as people vied to access it and to assert control over it. Over time, in response to this pressure and to the increase in women in the city, people living in the space decided to make it specifically for women, children, and the most vulnerable trying to cross and for people connected to CMS. The boundaries between who could and could not have access to the space were complicated and often blurred. The struggle over access never really resolved itself and took many forms. But essentially the space became one that was limited to these people for the remainder of its existence.

Victor Hugo was something of an experiment in autonomy for its residents. Because it was a squatted building, the local authorities tried constantly to clear

the premises (eventually with success). It was maintained and run by those who lived there, decisions were largely made collectively, and tasks were taken on mindful of the different capabilities of its residents.[40] These more structured ways of horizontal organizing were underpinned by numerous informal acts of equality: people cooked and ate together, washed clothes together, shared stories, and built bonds of friendship in the process.

These bonds took time and were not easy to make. People living in the house came and went. There were language barriers to overcome, cultural barriers, barriers created because of different everyday experiences (people without papers having to try to cross and people with papers not having to do that being probably the biggest one). To a large degree the space remained physically divided too, the upper rooms reserved for women who were trying to cross and the lower and public spaces open for others. But despite all this, people were collectively finding ways to share, to care for each other and, in this, understand each other. People talked about how there was something powerful in the normality of just going about the general tasks of living and caring for each other together. It created space for developing the kind of intimacy you make only when you take care of each other in situations of high stress.

There were many instances of sharing in Victor Hugo because it aimed to be a space of collaboration (between people crossing and CMS activists). Being open to other perspectives and different voices was a key part of this. People had to compromise. Working together changed people's perspectives and disrupted their agendas. The result was something different, something imperfect, complicated, and hard to navigate, but also perhaps more equal. It is what Gloria Anzaldua describes as building bridges, challenging our views, which takes us away from the safe spaces of the normal, familiar, and nameable, our "home."[41] One person connected to CMS reflected on the collaboration in meetings as follows:

> These [meetings] were particularly interesting because it was a time where our particular views about the space and how it should operate were brought into contact and sometimes conflict with the other residents. Suddenly things which we took for granted, like the fact that males who had been abusive should no longer be allowed near the house or that no men could be allowed inside, were brought into contact with the reality of the situation and also the wishes of those we wanted to be in solidarity with. It was very difficult to apply some rules wholesale and we had to constantly feel out situations and make decisions that were sometimes contradictory to our rules but in the end best for the residents of the house. This was a skill that took time to develop but also primarily trust with the other residents.[42]

Victor Hugo was a crucial resource for people trying to cross in Calais during the time it lasted. It was an experiment in autonomy that aimed to be a space of nondomination. But it was a far from perfect example that inadvertently gave room for other inequalities to take root. For example, CMS activists took on

the role of watching the door twenty-four hours a day, which meant "policing" access to the house. Although this meant that access was denied to anyone who was a threat (a nationalistic French neighbor would be prevented from entering, as would the police or journalists), it also meant turning away people who wanted a warm drink or to charge their phones and facing people who were drunk and sometimes verbally or physically violent. There was continual pressure to turn a blind eye, compounded by recognition of some glaring inequalities. Watching the door were often people with papers stopping men without papers from coming in. It was often white Europeans denying access to black Africans. It felt like the people taking on the door watch, in seeking to undermine forms of domination based on gender, reaffirmed forms of domination based on race. The situation brought the intersection of race and gender inequality into stark focus. Although the CMS activists were acting at the behest of the other residents, they forced those tasked with watching the door to ask whether it was possible to do this task and *not* reinforce these inequalities.

Then there were complex power dynamics *between* residents. Not everybody had an equal voice in the house. Meetings were often dominated by those with the most social capital, the most dominating communication style. Many power dynamics CMS activists did not see at the time but have recognized in retrospect. Those women connected to smuggling networks had greater power in the house and gave privileged treatment to some women (those also accessing those smuggling networks) while bullying others (those trying to remain free from them). Some CMS activists felt that rather than creating a space of relative safety, they had unwittingly become complicit in a system that was being used to further exploit women trying to cross. The reality of trying to push against privilege brought into stark focus how such a collaboration is far from easy. For many people involved in CMS this pushing back on privilege was a deeply uncomfortable and frustrating process, too incomplete, too partial.

In March 2014, people connected to CMS left Victor Hugo after ongoing negotiations with the local municipality broke down. The project was taken over by another charity until Victor Hugo was closed a few months later when a state-funded, charity-run women's space—a series of portacabins outside the city—was opened. This center was also closed down in February 2015 when its occupants, around eighty women and children, were moved, largely against their wishes, to a new center some seven kilometers from Calais, the area around which a jungle of some six thousand people later grew.

Conclusions

In this chapter I have illustrated how the struggle for the freedom of movement through creating moments or spaces of autonomy both concerns and involves

people with and without papers. In that, I proposed that collaborative community building is fundamental. I used the example of the squat on Rue Victor Hugo to draw out what was politically crucial and also challenging about such collaborations.

I find Victor Hugo an exciting example of the ways that people can undermine the border regime. For eight months it was a thorn in the side of the local authorities, a reminder of their failure to care for vulnerable people in Calais. It did the authorities' job, independently and with a nonhierarchical and anti-authoritarian ethos. Autonomy and equality were carved out collaboratively, within a situation of extreme oppression and inequality. As such, Victor Hugo represented something bigger than just a mutually beneficial space that met the needs of a minority. It was an active example of prefiguring a different kind of community based on equality. However problematic or fragile that equality was, Victor Hugo built lasting bridges between people with and without papers in Calais. In this, it amounted to an experiment in borderlessness within the mobile commons and posed a problem for the border regime.

Such spaces emerge out of need, but also out of a desire among people with papers to take responsibility for the structural inequalities that they are implicated in, to push back against privilege and participate in the mobile commons. But such collaborations raise numerous dilemmas too, in particular different variations of how we actually navigate privilege and oppression (of race, class, gender, etc.). These collaborations point to what I think is a fundamental dilemma of how we create equality in a highly unequal existing social reality. Those of us who benefit from the border regime may try to push against these privileges that we did not initiate but are nonetheless complicit in, but this often feels like plugging up holes in a dam that is failing faster than we can repair it. You try to build on the assumption of equality, yet inequalities constantly come up. For Amy Non, "This equality doesn't exist. Plain and simple. We can express solidarity, yes, that's OK. We can show that we're not willing to stand by silently and leave all these people by themselves, we can duke it out with the police and the fascists, play little games, squat houses, do media work, throw soli-parties. But we won't manage it, not totally, we will start to get a clue and then fall back on ourselves and our own histories."[43] The sense of the impossibility of equality can raise uncomfortable feelings over differences that seem too big to overcome. It can raise doubts over whether this is really our struggle at all or one we are simply playing a game at being involved in, whether we have any right to be there at all. At times it seems that people without papers share these doubts too and ask you, accuse you, demand of you, either in words or deeds, "what is this to do with you?"

This dilemma plays out in the way we try to push against our privilege. It plays out in the way others become complicit in reinforcing notions of white supremacy, for example in the ways that white people are often assumed to be

aid givers in such situations. It also plays out in the intersections of power play, in other people's ability to oppress others, in the ways that women trying to cross experience multiple forms of oppression or in the ways white or European women face sexism while also navigating these privileges. It points to the way that categories like "refugee" and "ally" fail to capture the intricacies of how people labeled as such wield power.[44]

Despite all these dilemmas, I still think that collaborative community is at the heart of a radical antiracist praxis toward the border regime for those of us who are, or choose to be, part of the struggle for the freedom of movement. Whether the meanings contained in and by the subjectivities that we inherit can ever be fully escaped or reconfigured is raised and unresolved by such practices. Antiracist work involves navigating a position that is both within and also escaping from the meanings attached to our subject positions. Our actions at pushing back against privilege are only ever partial because they are attempts at escaping vast, dense, and matted histories of oppression that weave through so many aspects of our daily lives. These partial escapes from privilege mean that our efforts to be antiracist, and for what we do to be accepted as such by others, are always incomplete. They mean we have to proceed mindful and wary of these dilemmas, but that autonomy still has the potential to emerge, partly from this mindfulness. They can only mean making judgments in each case based on the situation that faces you, resting on the presumed equality of human beings to create what Diane Elam calls "a network of responsibilities to others."[45] We often obsess over or dismiss structured forms of oppression, but perhaps the best we can do is take them into account while also having an orientation toward autonomy and striking out for that.

NOTES

1. Many different people made up the life of Victor Hugo, and my part was minimal. The story I tell is just one interpretation, drawn from interviews and reflective texts of others involved in the space, as well as a two-week stay in January 2014. My experience there is triangulated with similar experiences as a participant in freedom-of-movement struggles in Calais, France, over the past seven years. This chapter presents a linear and simplified summary of what was a very complex and nonlinear process.

2. Parts of this text were previously published in Natasha King, *No Borders: The Politics of Immigration Control and Resistance* (London: Zed Books, 2016), and have been reframed and developed here.

3. Stephan Scheel, "Biometric Re-bordering of the Schengen Visa Regime: Autonomy of Migration Despite Its Securitization?" (presentation, Millennium Materialism and World Politics conference, October 20–21, 2013); Peter Nyers, "Migrant Citizenships and Autonomous Mobilities," *Migration, Mobility and Displacement* 1, no. 1 (2013): 23–39.

4. Angela Mitropoulos, "Autonomy, Recognition, Movement," in *Constituent Imagination: Militant Investigations, Collective Theorization*, ed. Stevphen Shukaitis and David Graeber (Oakland: AK Press, 2007).

5. Nestor Rodriguez, "The Battle for the Border: Notes on Autonomous Migration, Transnational Communities, and the State," *Social Justice* 23, no. 3 (2013): 21–37.

6. Manuela Bojadžijev and Serhat Karakayali, "Recuperating the Sideshows of Capitalism: The Autonomy of Migration Today," *Flux e-journal* 17 (2010); Dimitris Papadopoulos, Niamh Stephenson, and Vassilis Tsianos, *Escape Routes: Control and Subversion in the 21st Century* (London: Pluto, 2008); Kim Rygiel, "Governing Borderzones of Mobility through e-Borders: The Politics of Embodied Mobility," in *The Contested Politics of Mobility: Borderzones and Irregularity*, ed. Vicki Squire (London: Routledge, 2010).

7. Bojadžijev and Karakayali, "Recuperating the Sideshows of Capitalism"; Michael Hardt and Antonio Negri, *Empire* (Cambridge, Mass.: Harvard University Press, 2000); Sandro Mezzadra and Bret Neilson, "Ne Qui, Ne Altrove: Migration, Detention, Desertion: A Dialogue," *Borderlands e-journal* 2, no. 1 (2003).

8. Papadopoulos, Stephenson, and Tsianos, *Escape Routes*.

9. Dimitris Papadopoulos and Vassilis Tsianos, "After Citizenship: Autonomy of Migration, Organisational Ontology and Mobile Commons," *Citizenship Studies* 17, no. 2 (2013): 178–96, 190.

10. Papadopoulos and Tsianos, "After Citizenship," 191–92.

11. That's not to say that the mobile commons functions perfectly. There are plenty of people who use it to exploit others, and in situations where people are in need, many will seek out an advantage if they can. Alongside the gift economy is a very big informal economy of smuggling networks—anything from other people on the move who charge others for additional help in their journeys to large, international organized crime syndicates that are often backed up by violence. But without discounting this, the mobile commons remains largely a realm of cooperation, mutual aid, and equality.

12. Bridget Anderson, Nandita Sharma, and Cynthia Wright, "'We Are All Foreigners': No Borders as a Practical Political Project," in *Citizenship, Migrant Agency and the Politics of Movement*, ed. Peter Nyers and Kim Rygiel (London: Routledge, 2012).

13. King, *No Borders*.

14. Anderson, Sharma, and Wright, "'We Are All Foreigners.'"

15. Hakim Bey, *The Temporary Autonomous Zone: Ontological Anarchy, Poetic Terrorism* (1991; New York: Autonomedia New Autonomy Series, 2003); Richard Day, *Gramsci Is Dead: Anarchist Currents in the Newest Social Movements* (London: Pluto, 2005); David Graeber, *Direct Action: An Ethnography* (Edinburgh: AK Press, 2009); George Katsiaficas, *The Subversion of Politics: European Autonomous Social Movements and the Decolonization of Everyday Life* (Edinburgh: AK Press, 2007); John Holloway, *Change the World without Taking Power: The Meaning of Revolution Today* (New York: Pluto, 2010); Martina Martignoni and Dimitris Papadopoulos, "Genealogies of Autonomous Mobility," in *Routledge Handbook of Global Citizenship Studies*, ed. Engin Isin and Peter Nyers (London: Routledge, 2014).

16. Day, *Gramsci Is Dead*, 183. Day defines these social movements as the newest way of distinguishing them from those that have organized as a counterpower to dominant social reality. Yet the idea of organizing nonhegemonically and horizontally is far from new and can trace a heritage back millennia, to all kinds of experiments in living outside of a formal state structure or without structured forms of domination. See also Pierre Clastres, *Society against the State: Essays in Political Anthropology* (New York: Zone Books, 1977); David Graeber, *Fragments of an Anarchist Anthropology* (Chicago: Prickly Paradigm Press, 2004); Graeber, *Direct Action*.

17. Engin Isin, "Citizenship in Flux: The Figure of the Activist Citizen," *Subjectivity* 29 (2009): 367–88; Engin Isin, *Citizens without Frontiers* (London: Bloomsbury, 2012).

18. Engin Isin and Greg M. Neilsen, eds., *Acts of Citizenship* (London: Zed Books, 2008).

19. Ilker Ataç, Kim Rygiel, and Maurice Stierl, "Introduction: The Contentious Politics of Refugee and Migrant Protest and Solidarity Movements: Remaking Citizenship from the Margins," *Citizenship Studies* 20, no. 5 (2016): 527–44; Isin, "Citizenship in Flux."

20. Nicolas De Genova, "We Are *of* the Connections: Migration, Methodological Nationalism, and 'Militant Research'" (presentation, Migration and Militant Research Workshop, University of London, January 30–31, 2013), 4.

21. Calais Migrant Solidarity (forthcoming).

22. Papadopoulos and Tsianos, "After Citizenship," 190.

23. No Borders UK, "*A No Borders Manifesto*," http://noborders.org.uk/news/no-borders-manifesto.

24. Croydon Migrant Solidarity, "Radical Migrant Solidarity: Initiatives, Observations and Ideas from the Struggle against the Border Regime," http://calaismigrantsolidarity.wordpress.com/videos-and-articles-2/.

25. For example, "ally politics" has been criticized widely from within radical activist scenes, mostly in the US context, as a form of identity politics that creates and rests on relationships of paternalism to a social group that we are outside of and that ultimately reinforces the very inequalities we supposedly seek to overcome. See, for example, A Few of the Many Anarchists in St. Louis, "Another Word for White Ally Is Coward," *Anarchist News*, http://anarchistnews.org/content/another-word-white-ally-coward; Delio Vasquez, "The Poor Person's Defense of Riots," *Counterpunch*, December 26, 2014; Cindy Milstein, ed., T*aking Sides: Revolutionary Solidarity and the Poverty of Liberalism* (Oakland: AK Press, 2015). Although I would agree that the ways people engage with the migration crisis in Europe are often paternalistic, I also think use of the word "ally" has a slightly different meaning from the way it is used in this US context.

26. Interview, anonymous.

27. Theodore Allen, *The Invention of the White Race*, vol. 1, *Racial Oppression and Social Control* (London: Verso, 2002); Chris Crass, "Building and Anti-racist Organizing," Colors of Resistance Archive; Chris Crass, "Towards an Anti-racist Politics and Practice: A Radical Autobiography" (n.d.), Colors of Resistance Archive; W. E. B. Du Bois, *The Problem of the Color Line at the Turn of the Twentieth Century: The Essential Early Essays*, ed. Nahum D. Chandler (New York: Fordham University Press, 2014); Niel Shirley and Sarah-Lee Stafford, *Dixie Be Damned: 300 Years of Insurrection in the American South* (Edinburgh: AK Press, 2015).

28. Finn Feinberg, "We Are All Oscar Grant(?): Attacking White Supremacy in the Rebellions and Beyond," in Milstein, *Taking Sides*, 107.

29. Liza McKenzie, "4 Ways to Push Back against Your Privilege," *Black Girl and Dangerous*, February 3, 2014, http://www.bgdblog.org/2014/02/4-ways-push-back-privilege/.

30. McKenzie, "Few of the Many Anarchists"; Crass, "Building and Anti-racist Organizing."

31. Crass, "Towards an Anti-racist Politics and Practice"; David Roediger, *Towards the Abolition of Whiteness: Essays on Race, Politics and Working-Class History* (London: Verso, 1994).

32. Gilles Deleuze and Félix Guattari, *A Thousand Plateaus: Capitalism and Schizophrenia* (Minneapolis: University of Minnesota Press, 2004). See also Rosi Braidotti, "The

Becoming-Minoritarian of Europe," in *Deleuze and the Contemporary World*, ed. Ian Buchanan and Adrian Parr (Edinburgh: Edinburgh University Press, 2006), 79–94; Caren Kaplan, "Deterritorializations: The Rewriting of Home and Exile in Western Feminist Discourse," *Cultural Critique* 6 (1987): 187–98.

33. Braidotti, "Becoming-Minor of Europe."

34. Deleuze and Guattari, *Thousand Plateaus*.

35. Harsha Walia, "Decolonize Together: Moving Beyond a Politics of Solidarity toward a Politics of Decolonization," in Milstein, *Taking Sides*, 41.

36. Clare Colebrook, "On the Very Possibility of Queer Theory," in *Deleuze and Queer Theory*, ed. Chrysanthi Nigianni and Merl Storr (Edinburgh: University of Edinburgh Press, 2009), 11–23; Andrew Robinson, "Symptoms of a New Politics: Networks, Minoritarianism and the Social Symptom in Žižek, Deleuze and Guattari," *Deleuze Studies* 4, no. 2 (2010): 206–33.

37. Robinson, "Symptoms of a New Politics."

38. Attempting to be effective allies in the mobile commons has not always led to collaborative community. There have been many spaces that have not been ours to inhabit and be a part of, and struggles when what people wanted was support at specific moments.

39. More information on Calais Migrant Solidarity can be accessed at calaismigrantsolidarity.wordpress.com, twittercom/calaisolidarity, youtube.com/user/calaisolidarity, and facebook.com/groups/calaismigrantssolidarity.

40. For example, the women trying to cross did not feel they were in a position to "defend" the space from men who were effectively in the same position as them or whom they were dependent on in some way. As a result, CMS activists took on the responsibility of being on the door, "policing" access to the house—with the other residents sharing responsibility for other aspects of daily life, like organizing the space upstairs, cooking, or cleaning.

41. Gloria Anzaldua, "Preface: (Un)natural Bridges, (Un)safe Spaces," in *This Bridge We Call Home: Radical Visions for Transformation*, ed. Gloria Anzaldua and Ana-Louise Keating (New York: Routledge, 2002).

42. Interview 2, anonymous.

43. Amy Non, *Calais, Calais* (Berlin: New Yorck im Bethanien, 2014).

44. Nadia Ünsal, "Challenging 'Refugees' and 'Supporters': Intersectional Power Structures in the Refugee Movement in Berlin," *Movements* 2, no. 2 (2015): 1–18.

45. Diane Elam, *Feminism and Deconstruction* (London: Routledge, 1994), 105.

CHAPTER 14

Violence, Resistance, and Bozas at the Spanish-Moroccan Border

NO BORDERS MOROCCO

When migrants, or freedom fighters, reach Spanish soil they often shout "boza"—a cry of victory in some West African languages. Therefore, our aim is collective "boza," freedom of movement for everybody and the dignity of every human being. Our contribution gathers testimonies and analyses from different activists across North Africa, West Africa, and Central Africa. In all these areas, people suffer from the deadly European border regime. The (neo) colonial policies and the exploitation throughout Africa by Western countries and Africa's own governments push many Africans to cross the deserts and the sea in order to reach Europe. Because of this common experience, we want to make Northern and Western African voices heard, voices from border struggles in Tunisia, Algeria, and Morocco.[1]

The Externalization of the EU Border Regime in North Africa

Due to its geographical position, North Africa is one of the focal points of international migration dynamics. By means of interstate treaties, EU migration policies of closed borders force the different North (and West) African countries to play Europe's watchdog, while the EU averts its eyes from human rights violations committed by state authorities against Arab and sub-Saharan migrants.

For years, the policies of the EU have aimed at pushing the borders farther south, instrumentalizing North African countries for migration control. By signing agreements and programs aimed at "regional development" with North and West African elites—who rarely act in the interest of their peoples—the EU externalizes the "problem" of migration.[2] African governments receive vast sums of money and, in exchange, close their borders, often with the aid of Frontex agents, who patrol together with local police. At the same time, there is strong repression against alleged "traffickers" who facilitate the crossing of borders for those who are not authorized to do so. But contrary to the official

discourse, the latter consist not solely of so-called mafia networks, but also of European and African state agents who benefit from the business created by the need to cross borders.

Already in the 2000s, the EU succeeded in putting enough pressure on Senegal and Mauritania to make them effectively close their maritime borders with the Canary Islands, forcing people to cross the desert.[3] As a result, more people tried to cross from Morocco to Spain. However, the Strait of Gibraltar—the most natural crossing point—and the Spanish enclaves (Ceuta and Melilla) are heavily securitized.[4] This creates a veritable hell for migrants. Algeria and Tunisia are part of the same Mediterranean forums between Europe and North Africa; they participate in several programs of migration control and "Mediterranean dialogue" on a smaller scale. In Libya, before the hypocritical change in attitude vis-à-vis Gaddafi, the EU had promised and paid millions to close the borders to sub-Saharan migrants despite human rights violations in Libya. The cooperation—and especially the friendship between Berlusconi and Gaddafi—started in 2004. In the following years, the number of arrivals was significantly reduced due to the efforts by Libya and the EU. A contract amounting to fifty million euros was signed in 2010, shortly before the fall of the Libyan president.[5] At the same time, the cooperation with Morocco is intensifying. In 2013, the EU and Morocco signed a so-called Mobility Partnership, with the objectives "to combat illegal immigration, networks involved in the trafficking and smuggling of human beings, and to promote an effective return and readmission policy."[6] A similar partnership was signed with Tunisia.[7] Moreover, the externalization of the border is extending even farther away from the borders of Europe. In 2008, the EU made an unsuccessful attempt to launch a so-called information and reception center in Mali. In 2015, the EU concluded additional agreements with Niger and proposed the establishment of such centers in Niger, extending and implementing the European agenda on migration many kilometers away from its borders.

However, officially the countries in North Africa pretend to be protecting human rights. Their lip service does not prevent the human rights violations committed systematically by authorities and their agents: raids, arbitrary arrests, confiscations lacking any legal justification, deportations, and push-backs at the border and even to the desert, as well as repression against migrants accompanied by discriminatory acts and regular racist aggressions. The reproduction of racism against black people in North Africa plays an important role in European border policies—a contemporary manifestation of the colonial principle of "divide and rule." The police officers present in the neighborhood, together with the state-influenced media, plant and spread resentment against the black population. This (semi)official discourse based on lies and distortions succeeds in the reproduction of racism, frequently resulting in violence, rendering the lives of sub-Saharan migrants even more intolerable. Moreover, this racist discourse

also succeeds in hiding another fundamental fact: the commonality of the experience of migration between North African and West/Central African populations. Thousands of North Africans have made the same journey across the Mediterranean, from the 1990s to today. And thousands of North Africans are threatened by deportation, especially in the current atmosphere, when Europe feels even more "invaded" by refugees. In the end, it is important to remember that all people denied the possibility to cross borders, whether they are from North Africa or from sub-Saharan Africa, are in the same situation: discriminated against and exploited by Europe, with the help of their own governments.

The War on Migrants in Northern Morocco

Out of all of the countries in Northern Africa, Morocco has proven to be the most reliable partner for the European Union. Regarding the fight against immigration, their cooperation with the EU is the strongest and serves as a prototype for similar agreements on border cooperation. Several agreements between Morocco and the EU are part of this policy of closing borders and controlling migration flows.[8] The EU has already approved a budget of more than 150 million euros for the new EU-Morocco Action Plan. This political agenda is both cruel and hypocritical since it often hides its intentions behind a humanitarian discourse. In 2015, however, its brutal nature became rather obvious through massive campaigns of terror and humiliation (such as raids, destruction of camps, and deportation).

In 2014, Morocco launched a regularization program for some migrants in an irregular situation. But on February 9, 2015, the minister of the interior, Charki Draiss, announced the end of this program. Because around eighteen thousand foreigners had received papers, the government presented this program as a success, masking the fact that the regularization program was selective and limited for sub-Saharan migrants and that a part of those benefiting from this program were European citizens. Moreover, the actual impact of the regularized status is ambiguous. On the one hand, a small number of sub-Saharan migrants were theoretically able to access educational, health, and vocational structures or avoid internal displacements. On the other hand, structural discrimination and racism persist. No matter whether the migrants have been regularized or not, they are still subjected to arbitrary arrests in many cases. Moreover, this regularization campaign has made it possible for the state to control migrants passing through its monitoring network. Overall, the positive depiction of the regularization program hides a strict and brutal border regime.

The inhumane and degrading treatment of migrants on the external borders of the EU demonstrates that behind a façade of respect for human rights lies an unjust and racist war on migrants that drives them to accept "voluntary" return or perish. Since the announcement of the end of the regularization program,

raids and looting in the forests around Melilla have continued. The Moroccan government has pursued a policy of terrorizing sub-Saharan migrants—a policy sponsored by the EU. The following sections present the details.

NADOR

Due to its geographical position (in the northeast of Morocco and near the Spanish enclave of Melilla), Nador functions as one of the main concentration points for sub-Saharan and Syrian migrants. On their quest to join Europe, they are blocked at the border with the city of Melilla. Coming mostly from the Moroccan-Algerian border and after traveling for thousands of kilometers, these migrants are concentrated at makeshift camps located in places that are difficult to access in forests such as Gourougou, Joutia, Taouima, Boulingo, Bekoya, and Lakhmis Akdim.

In 2014 there were sixty registered attempts to cross the three fences separating Nador and Melilla, involving 17,618 migrants.[9] During these attempts 2,249 migrants managed to cross the border under terrible conditions (repressions and violations of human rights). Moroccan authorities arrested 4,182 at the border. Before they were taken to the interior cities of Morocco, these migrants were violently abused by the Auxiliary Forces of Morocco. According to testimonies, the forces also seized from migrants their personal possessions, including money, cell phones, and clothes.

The other axis of coordination between Moroccan and Spanish authorities are the so-called hot deportations, or push-backs. These are carried out on the migrants who succeed in crossing all the obstacles and arrive in Melilla. On the other side of the border, they are violently intercepted by Spanish authorities and "delivered" illegally through back doors to Moroccan authorities, who deport them toward the center of Morocco. This even includes people injured in the crossing and in need of medical care. This illegal practice affected 324 migrants in 2014. The use of violence against migrants during their crossing attempts and after their arrest is generally the cause of severe injuries. The Hassani hospital in Nador received nearly 743 injured migrants in 2014.

Another aspect of the abuse against migrants' rights is the raids and searches carried out by Moroccan authorities in the camps located in the forests. In 2014, nearly 261 of these attacks were registered. During these operations, migrants, including women and children, were arrested and their plastic shelters and belongings burned.

The role of a watchdog, carried out loyally by Moroccan authorities, was reinforced in 2015. The goal was to dismantle the camps in Gourougou forest near the border fences of Melilla. During these violent operations, more than twelve hundred migrants were arrested and illegally detained for several days and in several detention centers with no judicial supervision. On February 10, 2015,

Moroccan authorities led a shameful operation to arrest and deport hundreds of migrants. They ambushed migrants on Gourougou Mountain, destroying and burning their camp and arresting around a thousand people, who were then taken to makeshift camps. On February 13, Moroccan forces raided and arrested migrants in numerous forests around Nador, such as Zoutiya, Bolingo, and Baquoya. The Gourougou camps, where migrants lived in order to organize their passage over the fences of Melilla, were completely destroyed. As a Nador official confirmed to the Moroccan Association for Human Rights, the authorities in Nador would no longer tolerate camps in the forests close to the border between Nador and Melilla, Spain. Currently, almost no one lives there any more, the majority having moved to forests further away around Nador, Tetouan, Fes, and Ceuta. Following the same logic—the war on migrants led by the EU—Moroccan police and their auxiliary forces continue to visit these various camps to control and arrest migrants and burn their belongings. As a consequence of months of physical attacks and psychological terror, migrants in the forests live in a state of anxiety with police agents inspecting their camps constantly. They do not know where they will sleep each night or what they will find to eat. Most of the time small material donations from sympathizers do not arrive, and when they do they are often destroyed and burned by the intervening police, which was the case in Bolingo on May 12, 2015.

Nador is also a passage for Syrians, the main nationality among migrants in 2015 at the migrants' shelter in Melilla. Most of them have to stay in hotels in Nador, while the new asylum office for refugees was opened across the border in Melilla. Therefore, they still face obstacles to reaching the asylum office: Syrian migrants approaching the border are repressed violently, which encourages their exploitation by gangs specialized in clandestine migration.[10]

Morocco has constructed a fourth fence with razor wire, with European Union funding, making any attempt to get to Melilla next to impossible. The virtual closing of this terrestrial border opened the door to migration by water using small boats, which is very risky and dangerous.

Testimony: "This Is How We Live in the Forest of Nador"

In this testimony, S, formerly living in the forests around Nador, talks about life in the forests around the Spanish enclave of Melilla and the neighboring Moroccan town, Nador. S refers to the old migrants' camp in the mountain Gourougou, visible from Melilla, where different communities lived in order to prepare their "forced attacks" on the fence, which represents the border with Europe. After their camps were destroyed, most people moved to other camps close by or in other towns more toward the center of Morocco. The testimony was translated from Cameroonian French into English.

We are really living in a very bad situation. At this point, we no longer have access to drinking water, and the Moroccan police demand of us to leave the forest. There are

push-backs to villages more than three hundred kilometers from the border, without shelter or nutrition, without water, neither for women nor children. Extreme temperatures, a lot of wind and some rain, too. The police burn our sleeping stuff, plastic sheets, but also our pots, almost everything, and they don't even care for newborns. I wonder if, in all these "games," the sub-Saharan is not just a support, a puppet, for the European politicians. If this is the case, I think activists must really stick together, with our hands on our hearts, in Europe as well as in Africa.

Yesterday, I went to Gourougou, a former encampment of migrants outside Melilla to discuss with the brothers there. There, I found Cameroonians, Ivorians, Guineans, Nigerians, and Malians, almost two hundred people in total. We discussed a lot, they told me that the police beat them on the Moroccan side, very hard. This is why they no longer go to the metal fences. They told me that modifications (the reinforcements to the barrier) continue to get bigger. And it's time that the fight also gets bigger. I ask all activists in Europe to raise the voice so that we are noted, listened to, and taken seriously.

Things need to change! Recently, there was a push-back from Gourougou; five comrades were arrested and put in prison, they were three Cameroonians, one Malian, and one Nigerian. The Cameroonian named Kandem told us that the Moroccan government accused them of having beaten the police forces. But I emphasize, the comrade can't be a danger. He's without any defense. He was sentenced to six months or more, and he says he has met a lot of comrades in prison, never convicted, for damaging the fences and hitting police officers—a man without anything, without any possessions!

All this needs to change, these dirty policies. We are fed up and have tears in our eyes.

TANGIER

For many years now, communities of sub-Saharans have found refuge in Boukhalef, close to Tangier. Some reside there permanently while others are in transit waiting to be able to cross to Europe. On a regular basis, sub-Saharans are harassed, sometimes violently, by Moroccans influenced by racist ideologies. The authorities regularly decide to try to evict them violently, which has resulted in several tragedies.

In July 2015, the authorities enlarged their deportation campaign to inhabitants of Boukhalef. In an unprecedented military and police operation they evicted the residents of eighty-five houses—both squatted and rented—because they were black. During this targeted operation, which lasted several days, one person was pushed from a roof and died, another was seriously injured. Five hundred people were arrested and deported by bus to the southern towns of Morocco. Others succeeded in escaping and found themselves in the nearby forest or in the Tangier Medina, having lost all their possessions, looking for a place to sleep.

In the following months, the majority of the people had no option but to live in the woods. They spent their days in the streets of Boukhalef, looking for ways to make a little money, perhaps to buy dinner or a place on a convoy to try their luck at sea. However, security on the seafront has been reinforced and the Moroccan marine forces do not hesitate to illegally push back those whom they intercept. And the majority of attempts to cross are already stopped before the migrants can board their boats, in the forest or on the beach.

Testimony: "Living in Morocco, It's Not Easy!"

This contribution is from A., a woman who was living in the camp around Boukhalef, Tangier, in 2015. The comments were not modified when translated to English but some explanations were added.

We live in the forest as if we were dead people. The forest, the cemetery, it is for the dead, it's not normal![11] However, we are alive! But does anyone deserve to live in the forest like a dead person, deserve to suffer like that? It's because they treat us like animals, like sheep. The chef du quartier said that to me that the Moroccans here see us like sheep.[12] They do not accept foreigners. There is no security for us in this country. We are attacked by the Moroccans. During the month of Ramadan, they threw us outside.[13] They threw me out and deported me, far away. To return here, to Tangier, it was difficult. We were forced to do the "Salaam," to beg. But why should a human being be forced to beg? With charity, it's always a dirham here, a dirham there, but how many "a dirham" are you going to be able to make in a day?

We came to pass through, not to stay, but we are stuck here. We could work, do physical work, with the hands, but there is no work. For women, if you work in the houses of the Moroccans you become their slave. From six in the morning until eleven at night, from morning to evening you work. And what do you get? Fifteen hundred dirham, a hundred fifty euros.[14] With that, how much can you send back home to pay for the school of your child?

The people back home, they do not know how you suffer. You suffer psychologically. You cannot even sleep. Even if you rent an apartment, you have no security, they can come at any instant, break the door, burn your things, put you outside. In 2013, they burned all of my belongings, I didn't have anything left.

There are houses that are abandoned. And we must help the people who are on the street. But where are the owners? They are in Rabat or in Casa, or even in Europe. But they still don't rent them out. However, us Africans, we could contribute each a hundred fifty dirham, with ten persons that makes fifteen hundred dirham, the cost of rent. But no. The winter, without a house, it's difficult, with the cold, you are sick, you cough. Even if you go to the hospital, you are not welcome. I had a sister, she gave birth, she died on the delivery table due to negligence. That was in Rabat, we buried her there. It is total insecurity, especially for us, the

women. A pregnant woman, a woman who has a baby, they are taken away for deportation without pity, this isn't normal. They have done this, they have deported many women with children, pregnant women, to the desert, at the border. We, the women, we suffer here a lot. When you walk along the road, they mock you, they say "A., a hundred dirham," that means to make love to you. Because they know that you have nothing to eat, so they can try to sleep with you, even for fifty dirham.

All those sicknesses, they come from that. Many women fall pregnant because they have nothing to eat, and because they have nothing to protect themselves with. If you go to the hospital to get an injection, for family planning, they will say that they don't know what you're talking about.[15] And if you want a Pap smear, they don't understand. That test, I didn't do it a single time here in Morocco, although it is advised for women to do it every three to four months. How can they not know about it? It's at a hospital, and they are doctors! And if you arrive in the "campo," then you can finally sleep.[16] You will sleep for a week maybe, because you are returning from death. It's there that your morale returns. Morocco, it's not a country.

OUJDA

In Oujda, a town close to the Algerian border, an occupied section of the Mohammed I University served as a refuge for migrants for many years. This occupied facility was an important resource for people who had just crossed the Algerian border, injured people, people leaving the hospital in Oujda, and those who just needed a break because of the fatigue, stress, and fear generated by the destruction of their camps.

On August 15, 2015, at around three in the morning, Moroccan security forces surrounded the camp, evicted the inhabitants, destroyed their personal belongings, and arrested around two hundred people. Almost half of them were released as they were minors or had papers; the rest were deported to towns in southern or central Morocco, mostly to Rabat. After the destruction of migrant camps and squatter houses in Nador (February) and Tangier (July), this represents the third major systematic Moroccan effort in 2015 to destroy the infrastructure for survival of migrant communities in northern Morocco.

It is in the name of defending the interests of the European Union and the military approach to the migration question that the migrants suffer this daily terror in Morocco. The tension between the Moroccan population and sub-Saharans is partly a result of the racist policies as well as stereotypes conveyed by some media to criminalize migrants—disguised behind a hypocritical discourse of a war against "smugglers" and "the mafia." In this context of war, in which the EU tries to pretend that the Moroccan-Spanish border is effectively closed, people cross every day to Ceuta and Melilla, especially because they pay the authorities to let them enter. Thus, migrants continue to be viewed as merchandise for the state mafia.

The Situation of Sub-Saharan Migrants in Morocco/Algeria

Morocco and Algeria are countries receiving migrants from sub-Saharan Africa. Migrants consider these as transit countries. The reaction by the Moroccan and Algerian authorities exposes the hypocrisy of their commitment to human rights.

Morocco ratified a number of international conventions and treaties (including international instruments for the protection of human rights), but officials often do not respect Morocco's own laws.[17] In Algeria, the frequent and massive push-backs (a form of forced displacement) of sub-Saharan migrants continue to be practiced at the Algerian-Moroccan and Algerian-Malian border, based on Algerian laws that criminalize migration.[18] These deportations constitute a violation of human rights. According to several testimonies, they are carried out under inhumane conditions (humiliation, violence, starvation, etc.).[19] They may be carried out at night in extreme cold or otherwise during the day in extreme heat, as is the case in the sparsely populated border area between Algeria and Niger, where sub-Saharan Africans, victims of human rights violations, can be threatened and attacked by gangs and trafficking networks, putting their lives at risk. Children, minors, and women are particularly exposed to the risk of violence—note the increasing fragility of the situation of migrant women.

In the past few years, the number of deaths in this border area has multiplied, without Moroccan and Algerian authorities explaining the reasons. These deaths have been caused by violence, but also by accidents associated with the increasingly risky crossing of the borders. The year 2014 was marked by the construction of fences on the Moroccan side and ditches on the Algerian side. Since then, the number of deaths has been increasing, notably as a result of making the crossing more difficult. The ditches are regularly flooded due to the proximity of the river. During the winter, when the temperature drops considerably, this water can be very cold. The corpses of people who have fallen into the ditches and the deceased were found and brought to the morgues in Oujda or Tlemcen. Moreover, many migrants died in Oran, Tlemcen, Meghnia, Oujda, Nador, and Tangier between 2012 and 2014 due to the violence and adverse living conditions in the forest where they seek refuge, and generally in the border zones (lack of basic necessities, makeshift shelters, poor hygiene and health standards, lack of drinking water, insecurity, raids by the gendarmerie, and rape of women). It is necessary to highlight that asylum seekers, as well as children and pregnant women, are equally exposed to detention, return to the Algerian-Moroccan border, and displacement to other cities in southern Morocco.

Sub-Saharan migrants travel from afar, and their journeys are full of risk, danger, and suffering. Once they are in Morocco, their human rights are regularly violated. They live in conditions devoid of basic human dignity and find

themselves stuck. Given the reinforcement of European border controls, they are able neither to enter Europe nor to return to their countries. The Moroccan and Algerian states continue to disrespect their international commitments in relation to human rights. They play the role of the police on behalf of Europe, using laws that criminalize migration, while disregarding the international conventions on human rights.

Resistance: Solidarity Struggles against the Border Regime

How many millions of euros are invested every year in the barriers between Melilla and Ceuta? One meter, three meters, six meters of fencing. The militarization policy has never been successful. There have always been migrant movements and attempts to cross to the two Spanish enclaves. The way from Morocco to Spain is only one route toward Europe, but everywhere in the world people find solutions to overcome barriers, undeterred by militarization.

Whether we are Africans, Europeans, or from elsewhere, it is up to us to stop this machine that criminalizes and kills human beings at every one of Europe's borders. Europe has happily opened its borders to all the world's wealth, in particular that from Africa (uranium, coltan, coffee, cocoa, petrol, gas, gold, diamonds, etc.), in total complicity with dictators who support and who are also responsible for this policy. Europe continues to incite and nurture conflicts and wars all over the world (Ivory Coast, Sudan, Central Africa, Congo, Libya through NATO, Iraq, Afghanistan, and most recently Syria). And the capitalist system further accentuates this EU policy that shows contempt for all human values. The writer Fatou Diome said on French television in April 2015,

> Those people who die on the beaches . . . if they were White the whole world would be trembling. . . . When the poor come to you, it's a crush movement which has to be blocked, but when you with your passport and all the arrogance what that brings, you disembark in the third world and you are on conquered land. So you see the poor who move but you do not see the rich who invest in our countries. . . . We must end this hypocrisy: We will be rich together or we will all drown together.

February 6 remains a day to remember and to remind the European Union of what happened that day: On February 6, 2014, at least fifteen people were cruelly killed by the Spanish Guardia Civil, as more than five hundred migrants tried to cross the enclosures of Ceuta, the Spanish enclave situated on African soil. During this attack, the Guardia Civil shot rubber bullets at people in the water. Due to the bullets and the tear gas, some people lost consciousness and drowned in the waters off Tarajal Beach. On February 6, 2016, a transnational protest took place in Morocco and Europe to commemorate the migrants killed by the Spanish Guardia Civil exactly two years earlier.

About four hundred people gathered in front of the Spanish embassy in Rabat to protest the murderous border policy of the European Union. Their slogan for the protest was "stop the war against migrants." The Comité de Suivi de Reseau pour la Mobilisation du 6 Fevrier 2016 Maroc, consisting of various sub-Saharan and Moroccan human rights organizations, activists from Tangier and the Camps of Nador, as well as transnational collectives and individuals, organized the event.

Mostly sub-Saharan migrants, but Moroccans in solidarity as well, made their way to the capital from Tangier, Tetouan, Nador, Oujda, Fez, Meknes, Casablanca, Tiznit, and Layoune. The protest was joined by European activists too. Slogans like "freedom and dignity for all Africans" and "open the borders" were shouted angrily toward the Spanish embassy. For the first time, people, some of whom witnessed and survived February 6 in Tarajal themselves, were able to express their anger in the streets. Slogans like "European Union: Stop the hypocrisy and the killing at the borders!," "Freedom of movement!," and "Open the Borders, not the deserts!" could be read on various banners and posters. A group from Fez brought pictures from their friends who had been killed on February 6, and a musician from Senegal now living in Tangier sang a song for all those who had died at and because of the border.

On T-shirts and stickers the demands for "Ferries not Frontex" and "Ferries for all!" could be read. At the same time when the demonstration in Rabat took place, the Alarm Phone project was involved with several boats in distress. A young protester among the crowd was very scared: a boat carrying his friends had not been found yet and was lost somewhere between Tangier and Tarifa. Two persons were already dead, and the Spanish coast guard was not able to locate the ship. Very late that Saturday (February 6, 2016) activists from Alarm Phone confirmed that the boat had been discovered by the Moroccan coast guard with five survivors out of seven.[20]

The rage about the consequences of Europe's border policy and the constant and meaningless dying of thousands of comrades became evident this Saturday. It was the first time that a demonstration of this size took place and sub-Saharan migrants from all over Morocco came together to raise their voice in public to call for changes in the European border regime. Interviews were given to international TV, radio, and newspaper outlets.

Afterward, the program continued in a big conference hall in Agdal, where people from several countries spoke. Women and men from Morocco, Gambia, Mali, Cameroon, Senegal, and other countries discussed issues revolving around global justice and freedom of movement. The protest took place not just in Morocco. Migrants and antiracist groups in solidarity demonstrated the same day in Ceuta, Melilla, Madrid, Barcelona, Strasbourg, Berlin, Rome, Genoa, and Idomeni.

Every day the EU continues to kill with callousness. Even the mass media have documented the terrible happenings at the borders. In 2016, there were

over five thousand deaths in the Mediterranean Sea.[21] Working with Alarm Phone, we have come to realize the drama of the situation of migrants on the high seas.

But we also have gotten to know more and more members of civil society who are not willing to accept this murderous reality produced by the EU politics. Migrants seeking a better life are beaten up on the borders of Europe and drown in the sea because the EU refuses to open safe and legal migration paths.

We are activists from collectives, associations, initiatives, and various social movements.

WE DEMAND THE EU TO STOP THE WAR ON MIGRANTS!
WE REFUSE TO ACCEPT MORE DEATHS IN THE SEAS AROUND EUROPE!
WE NEED FERRIES, NOT FRONTEX!
WE CALL FOR FREEDOM OF MOVEMENT FOR ALL
AND THE DEMILITARIZATION OF THE BORDERS!

NOTES

1. Earlier versions of some of this testimony were released in "Voices from the Borders/Voix des frontiers," available at https://beatingborders.wordpress.com/2016/02/11/6th-february-2016-400-demonstrate-in-front-of-the-spanish-embassy-in-rabat/ and https://beatingborders.wordpress.com/2016/02/11/dezember-2015-boza-push-backs-deaths/.

2. Within the framework of the European Neighborhood Policy, the EU negotiates action plans with its partner countries. The incentives provided as part of the ENP include financial support and economic integration. The action plans often contain stipulations on border control and reinforcement.

3. For further information, see European Union, External Action, "European Neighbourhood Policy," https://eeas.europa.eu/topics/european-neighbourhood-policy-enp_en.

4. For further information, see Frontex, "Western African Route," https://frontex.europa.eu/trends-and-routes/western-african-route/.

5. As an "Advanced Partner" in the ENP, Morocco is complicit in creating a buffer zone externalizing the EU's inhumane border regime to Northern Africa. The EU-Morocco Action Plan includes "assistance in implementing the strategy to combat illegal migration."

6. The full declaration establishing the Mobility Partnership is available here: http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/2013/docs/20130607_declaration_conjointe-maroc_eu_version_3_6_13_en.pdf.

7. See "Déclaration conjointe pour le Partenariat de Mobilité entre la Tunisie, l'Union Européenne et ses Etats membres participants," http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/international-affairs/general/docs/declaration_conjointe_tunisia_eu_mobility_fr.pdf.

8. Examples include the EU-Morocco Action Plans of 2005 and 2013, and the Joint Declaration Establishing a Mobility Partnership between the Kingdom of Morocco and the European Union and Its Member States," signed in 2013. The Mobility Partnership

includes negotiations on readmission, while the Action Plan stipulates "assistance in the strategy to combat illegal migration" (EU/Morocco Action Plan, §48) from the EU.

9. All the following statistics are taken from the 2014 report published by the Moroccan Human Rights Association (AMDH) about the situation of migrants in Nador called "When Moroccan and Spanish Authorities Join Forces in the Repression of Sub-Saharan Migrants."

10. The asylum office is located at the border, but on the Spanish side. Therefore, in order to reach it, people have to pass the Moroccan controls, which is as good as impossible for anyone who is black and difficult for Syrians, who, in order to reach Europe, often have to buy a fake passport at the cost of between two and three thousand euros.

11. The forest/cemetery refers to the migrant camps around Boukhalef that are partly in an old Moroccan cemetery.

12. The chef du quartier is a police agent/a secret service agent who surveils a certain district.

13. During Ramadan (June/July) 2015 the police evicted all Sub-Saharans living in Boukhalef. Since then, they have lived in the forests or on the streets.

14. These values refer to a monthly salary.

15. The injection refers to hormonal contraception.

16. "Campo" is a term used by migrants for reception and detention centers.

17. For example, through the violation of Law No. 02-03 on the entry and stay of foreigners in the kingdom of Morocco and irregular emigration and immigration.

18. Law No. 08-11 of June 25, 2008, and No. 09-01 of March 8, 2009, regarding the entry and stay of foreigners in both countries, designed to define the conditions of entry, residence, and movement of foreigners in Algerian territory.

19. According to the releases of AMDH and the Algerian League for the Defense of Human Rights (LADDH).

20. Watch the Med, "06/02 Alarm Phone Alerted to Boat in Distress in the Western Med, One Person Died and One Went Missing," http://watchthemed.net/index.php/reports/view/437.

21. International Organization for Migration, Missing Migrants Project, http://missingmigrants.iom.int.

CHAPTER 15

Comunicados desde Chicagoiguala

SEMILLAS AUTÓNOMAS

The movement sparked by the forced disappearance of forty-three students from the Ayotzinapa Rural Teacher's College is part of an ongoing struggle of indigenous people, campesinxs, and students against state sanctioned violence and capitalist expansion. The Popular Assemblies in Mexico have been setting a course of action to blockade and disrupt the workings of transnational capital, to create forms of self-organization and self-governance from below.

Autonomous groups of migrants in Chicago have tried to develop pathways for spreading the rebellion *en el norte*. They responded with protests, assemblies, teach-ins, public forums, and gatherings. Over the course of several years, they have targeted both the so-called war on drugs and the making of "Latino" politics in the United States as different fronts of a counterinsurgency war. They have also organized a series of occupations and blockades of the Mexican consulate. These direct actions faced repression from a layered security apparatus of transnational private security firms, US State Department agents, and Chicago police. They forced into visibility the collusion between political/economic elites on both sides of the border in the repression of the rebellions and the active suppression of their spreading in the diaspora. The actions also provoked emotional and intimate exchanges, as some people distanced themselves from what they saw as "violent" tactics while others joined as participants or witnesses. The occupations of the consulate opened up a collective exploration of struggle politics, the nature of political violence, and the ethics of conflict.

There are ongoing pressures on autonomous groups to make their existence legible to the academic/nonprofit/liberal sphere, to deliver themselves to mainstream, social, or independent media—without acknowledging the asymmetry of these power relations or the ways these asymmetries require violence for their reproduction. We experience this drive toward legibility as a form of dispossession, a way of mining a social capacity for possibilities of profit extraction. Instead of a narrative or a presentation about who is doing what, with whom, and how/where/why, this contribution presents a series of excerpts from written

and audio communiqués, event flyers, and calls to action released by Semillas Autónomas between 2014 and 2017.[1] The form of this chapter follows from existing commitments and ways of working.

From "Who Disappeared the 43 Students from Ayotzinapa?," Protest/Action Flyer, Released December 2014

The Mexican Embassy in the United States has instructed consulates to "minimize the impact" of the protests taking place in solidarity with Ayotzinapa. The story they are selling us is this: *the federal government is fighting crime and making great progress towards justice. Uprisings destabilize the promise of justice and prosperity; stay calm and return to "normal."*

At the same time, President Obama has announced "administrative relief" for immigrants, the latest show in a long series of reform spectacles. We are promised probation for categories of desirable immigrants in exchange for expanding the conditions that cast us as disposable lives. The message is this: *you should be grateful and cooperate. Uprisings destabilize the promise of status and prosperity; stay calm and return to normal.*

The United States and Mexico are enforcing a social peace that is a social death. They call it the War on Drugs. This is not about fighting organized crime and the narco-cartels, whose operations are intimately linked with both governments and transnational finance. Instead, the War on Drugs is a way to govern through death-making, disappearance, and terror, to govern not in the interests of living beings but in the interests of capital. This war is not just against the students from Ayotzinapa, but against the consciousness and lifeways they represent.

The true "organized crime" is created and maintained by the state and by corporate interests who seek to expand their control over the people, lands, and resources of the Americas. In the killings and disappearances, the state is the author and executor at the service of capital.

The state disappears those who arm themselves in self-defense against the narcos, mining companies, and government occupation. The state disappears the Yaquis who fight in defense of ancestral waters and the right to exist. The state disappears those defending the lands from resource extraction, those who refuse to acquiesce to their own destruction. The state disappears the women it has displaced to the maquilas. The state disappears all who stand in the way of the neoliberal restructuring of life, those who create autonomy and threaten the interests of multinational corporations. The state disappears red, black, and brown peoples into prisons and detention centers, into borders, into graveyards, into the living death of servitude and assimilation.

This War on Drugs has displaced us and millions of others, but crossing the border did not make us free. The organized crime cartels of political parties, banks, big business, and Poli-Migra continue this war here in the US. The deaths continue

at the borderlands. The disappearances continue into detention centers and deportations, with over two million men, women and children migrants kidnapped by Homeland Security forces in the United States under the Obama administration. The rest of us are bribed with offers of "relief" that only increase the oppression, surveillance, and enforcement against us. We are shackled into a classification system of permits and papers, of degrees of unfreedom, to keep us afraid and to keep us silent, to keep the rebellion from crossing the border into the United States.

From "Comunicado Sobre la Toma del Consulado General de Mexico en Chicago," Audio Communiqué on the Occupation of the Mexican Consulate of Chicago, Released to Independent Media, October 2014

If we do nothing, if we say nothing, if we remain passive and well-behaved as is the expectation, they will continue to kill and disappear us. We are poor. We are the people that the middle class, the class that has money, regards as a nuisance, as garbage, as vandals, as useless and without worth, people without education, ignorant people. We are the social class that has been impoverished, where there is no land, where there is no education, where there is not water even, because they are stealing it all, where we are dispossessed and disappeared and murdered for thinking, existing, surviving.

To the US and Mexican narco-capitalists, to those who govern from above, we are the waste of society, we are better off dead or brought to nonlife as servants to their papers, permits, and IDs. They want to convince us that this form of government and rule is the only way to organize our communities, our lives.

We will no longer stand in line. We refuse to be converted to numbers, to become obedient, lifeless things. We occupy today to affirm our humanity, our survival, our rage and defiance, to face and confront this space that should belong to us.[2]

From "What Is the War on Drugs?," Translation from Protest Flyer "¿Qué hay detrás de la guerra contra las drogas?," January 2015

The Mexican government claims to be fighting a war against narco-traffickers. But the government has always been in the drug business, and cartels now control government officials and institutions across the country. The narco-state is indeed waging a war—but it is a war in the interest of the big players of global capitalism. It is part of continuing and enforcing trade agreements such as NAFTA, which force open all of Mexico to the unhindered extraction of profit. The function of the war is to impose a political and economic restructuring of Mexico in the interests of transnational capital. This war is good for big business.

This is what social movements call *narco-capitalism*: a form of globalization in which national governments are key players in the global drug trade, and the drug trade plays a key role in expanding the control of transnational corporations

over land, resources, and people. Meanwhile, these same governments adopt an official policy of "war on drugs" as a pretext for increased militarization and for subjugating their people.

The US-sponsored War on Drugs in Mexico since 2006: 100,000+ people murdered and 30,000+ disappeared; mass graves in Guerrero, Tamaulipas, Chihuahua, and other states; a rise in attacks against transmigrants; increase in torture and executions; expansion of the drug trade and of extraction industries; mass economic displacement; land and water dispossession of indigenous peoples and campesinxs; neoliberal "reforming" of education, labor, judiciary, energy, and finance.

The United States has been funding this war through the Merida Initiative and other "anti-narcotics" programs. About $3 billion has gone to transnational logistics and consulting firms that "restructure" Mexican society to make it friendly to foreign investment, or to buying weapons from US manufacturers and paying private military companies. The same thing happens with the $11.3 billion that Mexico has spent. This is public money, money stolen from people on both sides of the border—and it is going directly to Boeing, Raytheon, Blackwater, Halliburton, and others. The US private sector and government also facilitate the transfer of military-grade weaponry into the hands of the drug cartels—over 90 percent of the weapons used in narco-killings originate in the United States. The US sponsors the slaughter, thus justifying an increase of military intervention. As in the case of Colombia, an increase in US-backed (para)militarization correlates with high levels of displacement and dispossession of people, especially indigenous people, living in areas of strategic economic importance, and these displacements serve the interests of mining companies and other transnationals. As the war on drugs expands, transnational corporate control over entire regions expands, and exploitation of the people and the resources deepens.

The United States has a history of training military and paramilitary forces in the use of terror. The governments tell us that terror is the product of cartel violence and that state military+police forces are the only possible solution. But government forces also strategically use disappearance, execution, torture, and mutilation against specific populations. They target students, workers, campesinxs, indigenous peoples, activists, all those who resist or who could resist, including communities organizing armed self-defense. The goal of terror is political: it is not only about killing people, but also about silencing, intimidation, eliminating political resistance, and destroying lifeways. The United States has perfected the use of terror over decades of experimentation in Central America and the Middle East: it is called counter-insurgency.[3]

From "#Chicagoiguala" Interventions on Social Media Platforms, Compiled September 2015

How is Chicago connected to Iguala and the attack on the Ayotzinapa students that took place there? One of the buses the young students tried to commandeer

had a stash of narcotics destined for Chicago's La Villita, a major hub in the cross border drug trade. The students, so the official story goes, accidentally interfered with the shipment and were thus punished by the narcos. But Chicagoiguala is not just a drug corridor. Chicagoiguala is where we live and struggle against the forces of assimilation and mental colonization. From here we can see how it is constructed, an integrated global supply-chain linking captive labor, extraction, assembly plants, finished commodities, planning processes and financial flows. It is how logistics firms and consultants "restructure" the state, channeling public moneys and migrant remittances into infrastructure projects that open up new territories for transnational extraction. It is how Mexican economic and political elites are organized in the US under the name of Latino politics, whose function is to de-indigenize and manage the mass migration.

Chicagoiguala is a counterinsurgency corridor. It is how our struggles for liberation are disarticulated by "immigration reform" politics and the electoral spectacle.

From "¡Black & Brown People Rise Up! Against Police Violence, La Migra and Latino Political Establishment," Call to Protest/Action Flyer, December 2015

In Chicago, 26th Street is second only to Michigan Avenue in terms of financial power. But the economic significance of 26th Street isn't measured in Louis Vuitton bags. This is an important street for US-Mexico Narcocapitalist relations. . . . We ask our Brown communities in #LaVillita #Pilsen #LittleGuerrero #Cicero #BackoftheYards #BrigthonPark #HumboldtPark and beyond to organize in the streets and stand shoulder to shoulder with our Black Compañerxs. Our struggles for liberation are connected across the "Americas." The silence must end in our Brown communities. We must clarify that the "Hispanic/Latino" political leadership of Chicago does not represent us—they police us, they sell us out, they try to control and extinguish our struggles for liberation.

We are not Anita "Serial Killer Accomplice" Alvarez. We are not killer cop George Hernandez. We are not Chuy "1,000 More Cops" Garcia. We are not Danny "Gentrification Champion" Solis. We are not Luis "Border Militarization" Gutierrez. We are not Carlos "We Call the Cops" Ramirez-Rosa.[4]

From "¡Nestora Libre!," Statement for the Free Nestora Campaign, Released July 2015, Updated August 2015

Nestora Salgado is a Comandanta in the indigenous community self-defense force of Olinalá, Guerrero, and a leader in the CRAC-PC (Regional Coordinating Committee of Community Authorities). Nestora Salgado was extrajudicially captured by Mexican federal forces in August 2013. Last year a federal judge in Mexico ordered Nestora's release; nevertheless, state authorities refused without judicial cause. We have been informed that they are attempting to manufacture more charges which

can result in a 1000 year prison sentence! After a 24 day hunger strike, Nestora Salgado was transferred to Tepepan, Mexico City. Support is urgently needed for her defense and liberation.

Nestora Salgado migrated to the US from Guerrero, Mexico. Even though she became a naturalized US citizen, she defied the pressures to assimilate into the "American Dream" and instead returned to Guerrero to join her people's armed struggle for liberation. As a Comandanta, Nestora confronted the narcotraffickers, transnational mining companies as well the state violence unleashed in Mexico under the guise of the US-backed "War on Drugs." Through her work against patriarchy and gender-based violence, women have become central participants in the political process of self-determination and self-defense in Olinalá.

Nestora's resistance is part of a larger continuum of African and Indigenous people's struggles for self-determination. Specifically, the CRAC emerged along the coast of Guerrero (Costa Chica) as a struggle for self-defense linking Afro-Mexican and Indigenous communities. The CRAC is a legally constituted entity, but its purpose and demands exceed and subvert the framework of the law. Guerrero's constitution allows for the formation of indigenous "community police" under State Law 701 which recognizes original people's right to self-determination. However, CRAC is not an attempt by indigenous people to police themselves or to collaborate with established police forces, but rather represents an effort to build counterpower, foment ungovernability, and build networks of defense against the encroachment of organized crime, the state, and transnational corporations. This collective project has found itself in a relative deadlock with neoliberal plans of extraction and development. As a result Mexico, the US, and Canada have worked together to strengthen, arm, and paramilitarize organized crime networks with the intent of displacing indigenous people from their traditional lands and securing their economic interests in the region.

The imprisonment of Nestora Salgado, as well as many other fighters such as Gonzalo Molina and Arturo Campos, is a direct result of this same politics of economic and military intervention, which seeks to disarticulate the process of indigenous autonomy and self-determination.

From "On the Violent Eviction of Beloved Okupa Chanti Ollin in Mexico City," Private Correspondence, November 2016

Chanti Ollin grows autonomy as a system of integrity and interaction, a system of roots, and of attachments to our roots. Chanti Ollin is a menace to mechanisms of social control and to the forces of death-as-life. The danger is regaining our mindfulness, finding ourselves beyond the arm of freedom that schools in the depths of the screen, the arm that self-tied our binds, the knots that stilled our movements and gave ourselves up so willingly. The caution is that we who are hungry can feed ourselves, we who are desplazadxs can shelter each other. The harm toward the

state is constructing bodies that heal and find each other moving toward wholeness. Legs that march, bodies that fill, and backs that do not break, this architecture is invincible.

From "Migrant Resistance in the Time of Apocalypse," Flyer/Communiqué, February 2017

Liberal panic at the election of Donald Trump is fueling new opportunities for social movement managers. We are now told that we can resist the reign of Trump by rallying—in an orderly fashion—behind the familiar immigrant rights nonprofiteers. But the liberalism of the "immigrant rights left" does not offer a way out; *it cannot even explain what the fuck is going on*. And that is because these same nonprofiteers have historically sold out migrant and indigenous communities to produce "eligibles" convenient to empire, a small caste of worthy "potential citizens." They have attached themselves to the Democratic Party to champion a politics of increased deportation, criminalization, and the expropriation of indigenous lands in exchange for merit-based legalization. More recently they have fear-mongered our communities into applying for Deferred Action for Childhood Arrivals (DACA), arguing that identification from/with the State was the same as protection from violence. They have stolen our bodies, energies, and struggles and turned them into social and political capital for themselves. And they have gambled this capital on a neoliberal consensus that, despite the hype and bullshit, was never meant to dispel the specter of white settler nationalism. The immigrant rights left have been operating as the foot-soldiers of a counter-insurgency that needed them as intermediaries.

For us, Trump's rise to power flows directly from this context. Now we have people like Richard Spencer, the infamous punched-in-face Nazi, spewing forth what would previously have been hidden from the cameras: "America was, until this past generation, a white country, designed for ourselves and our posterity. It is our creation, it is our inheritance, and it belongs to us." This "primal scream" pushes back on codes of multicultural neoliberal civility to confront a crisis of white-settler coherence brought about by the disorientations of globalized economies. Trump and his many Spencers are part of a process of validating and managing the resentments of white-settlers—and this requires the unabashed celebration of the making and maintaining of settler-colonialism. At the heart of Trump's promise to build a wall on the "US-Mexico border" is not the deterrence of immigrant bodies or the making of punishable, exploitable people—which liberals rightly argue is better accomplished through less spectacular and more subtle surveillance and apprehension mechanisms—but the material consecration of the symbolic power of the white State in response to its perceived erosion.

Trump's tirades about "criminals" and "bad hombres" coupled with near ecstatic invocations of "law and order" are meant to unleash a politics of violence that

rejoices in dismembering and capture. But this rejection of neoliberal management and civility is not a move away from globalization. Instead, it is its crowning achievement. This approach represents a change in a strategy toward perception management rather than a departure from the quest for a productive, globally integrated capitalism. It does not retreat but rather evolves the current constellation of power, and it is causally intertwined with the fruits of neoliberal policies.

Resistance to the future-colony requires a move away from liberal and reform-centered politics that will only betray us in the end. The connection between white-settler nationalism and anti-colonialism is that neither are interested in obscuring the violent nature of settler-coloniality.

From "Ni vencidxs, ni vendidxs," Private Correspondence, March 2017

We should clarify that as migrants we are not helpless. Nor are we harmless. Despite our thick criminal dockets and deportable statuses, we do not seek to be well-behaved citizens who are productive for capitalism.

Instead, we conspire alongside some of the most dangerous elements of the encampment at Standing Rock. But this is not the only terrain from which to kill a black snake. Or a hydra. In a colony known as Mexico, Indigenous Zapatistas have managed to create and hold spaces where ancestral autonomy has flourished in the face of a self-cannibalizing social form. We work to support the CRAC-PC and the armed indigenous self-defense struggles in Olinalá, Guerrero. We find instruction and an affirming affinity with the anti-colonial struggles unfolding in O'odham lands along the so-called US-Mexico border. It is these struggles that create the conditions from which we can envision a future that is not the United States of America. Here, we witness the artificial and arbitrary nature of colonial laws, treaties, boundaries, and borders that transmogrify as quickly as corporate interests dictate and as terribly as state armies enforce. As migrants, as settlers, as newcomers, we are guided to develop collective sabotage and refusal anchored in an absolute negation of colonial rule. We see that we must learn/remember ways of feeding ourselves and our rebellions, of holding prayer, materially and spiritually. For many in Standing Rock, attacking the nodes of colonial infrastructure was part of this prayer, dissolving myths of indigenous people as non-violent, eternal victims of a perennial process of life- and land-taking.

NOTES

1. The texts that follow are extracts from communiqués released by Semillas Autónomas in different formats between 2014 and 2017. Some were flyers announcing or calling for specific actions, others were distributed or read as part of events or actions, while others were made for online circulation. The audio communiqués were released online and republished by many independent media outlets across the border. One statement was read at the Asamblea Popular inside the occupied consulate and later circulated by video recording. More information is available at semillasautonomas.org.

2. This communiqué is available at https://soundcloud.com/moratoriumondeportations/communique2.

3. This communiqué is available at http://www.semillasautonomas.org/3_war_on_drugs_spanish_vertical_jpeg/.

4. This communiqué is available at http://www.semillasautonomas.org/black-and-brown-people-rise-up/.

CHAPTER 16

Sanctuary Cities and Sanctuary Power

PETER MANCINA

Conservatives characterize sanctuary cities as "lawless," "criminal," "dangerous," or "illegal" spaces that "harbor criminal aliens." Following the election of Donald Trump as US president, liberal, progressive, and leftist anti-deportation activists have fought to pass new sanctuary city and state policies under a similar assumption that these are spaces of "resistance," spaces where immigrants are "protected" or safe from deportation, abject spaces outside of the law, legally "exceptional" spaces, spaces where rules are broken in a sort of governmental civil disobedience, liminal zones, "zones of indistinction," or zones where emergent forms of "insurgent citizenship" are formed. However, sanctuary policies and sanctuary practices neither create a true sanctuary or safe zone from deportations nor make a city where everyone is safe from immigration authorities such as the Immigration and Customs Enforcement (ICE). Furthermore, they do not challenge sovereignty, citizenship, borders, nationhood, legality, or immigration enforcement—that is, they don't mount the social revolution needed globally to create true sanctuary for all people, for ending the violence of bordering practices everywhere, and for creating a world of free movement.

Sanctuary cities have been part of a deportation-filled and border-filled world for over three decades, allowing for federal immigration enforcement activities to occur within their jurisdictions unimpeded. Their part has not been to stop these activities, but to decline to participate in creating dragnet mass deportation programs that incorporate local employees. Sanctuary cities have been the primary and essential, not exceptional, form of municipal government in the United States around which services are provided to all residents, including migrants. Sanctuary cities have included San Francisco, New York, Seattle, Chicago, Washington, Philadelphia, Boston, and Los Angeles, among hundreds of other jurisdictions. These are mainstream cities divided by rampant inequality, racism, police brutality, and exploitation of undocumented workers, where the effects of borders hang high in the minds of all those who conservative media believes the government is supposedly "harboring."

Sanctuary cities are those where local government protects the budgets, resources, and functionality of the criminal justice system, courts, police agencies, and jails—institutions that have systematically undermined the self-determination of black and brown communities, including immigrant communities. A sanctuary city governance strategy—which I refer to as *sanctuary power*—aims to ensure municipal government efficiency, to define the roles and procedures of various state agencies in relation to one another, and to allocate governmental resources appropriately, in addition to reducing city-assisted deportations and helping only certain migrants it finds acceptable in its society. Sanctuary power is about making sure that a single project of federal immigration enforcement does not interfere with municipal services and population management—and therefore undermine the proper functioning of the state itself.

As such, sanctuary power is not a governance strategy of undermining borders, citizenship, or immigration enforcement, or creating safe spaces for migrants. Citizenship, borders, and police brutality are maintained within sanctuary cities. Sanctuary power aims to first and foremost maintain the operability of government in a globalized world where unauthorized migrants and their mixed-status families who are under attack by the federal government make up significant portions of city populations. In sanctuary cities, certain bordering practices of city governments—immigration-related detentions, information sharing, and transfer of custody for the purpose of deportations—and federal classifications are sidelined or minimized, not erased. In sanctuary cities new political identities such as "resident regardless of immigration status" and new practices of the state—immigration-status-blind public benefits provision practices and city deportation-assistance practices—are added onto the existing political landscape. From this state-centric frame, the policy behaviors of sanctuary city legislators, officials, and frontline workers can be seen primarily in terms of protectionism of the integrity and functionality of local government and only secondarily or perhaps merely politically in terms of benevolent humanitarianism toward migrants.

Nonetheless, policy makers, executives, and workers declining to do nonmandatory favors to assist the deportation regime according to city policy *does* accomplish a certain form of resistance to bordering practices, which this chapter outlines. Furthermore, this chapter argues that the quasi-immigration-status-blind administration and governance model that sanctuary cities have experimented with and developed over the past thirty years provides us with a preliminary model of what governance without borders, nations, or citizenship could look like.

How Sanctuary Cities Work

In order to locate, detain, and deport undocumented people more efficiently, US federal immigration authorities for the past several decades have increasingly

sought the assistance of millions of municipal and county government service workers who come into direct contact with undocumented people on a daily basis. Immigration enforcement work is the sole prerogative of the federal government, which has exclusive jurisdiction over entries and exits from the country, while municipal and county workers are not responsible for, trained for, or legally obligated to assist in enforcing federal immigration laws unless their city, county, or state legislators have passed local laws mandating it.

The consequence of the federal government attempting to force localities to do this work is that, first, it diverts resources of local agencies toward federal immigration enforcement work without repayment. The federal government also does not provide them additional personnel and resources to fulfill the municipal tasks they were not doing when they were helping deport people. This is the federal government effectively commandeering those local resources. Second, and more importantly, when local agencies assist in deportations, they are soon faced with an operational problem. Undocumented people, legal migrants who may have undocumented family members, and even citizens or legal residents who may be perceived to be undocumented due to appearance or language may hear of city cooperation in deportations and become afraid to seek department services or cooperate in city agency programs. In cities like San Francisco, where undocumented people make up roughly 5 percent of the city population and immigrants as a whole, including legal immigrants with undocumented family members, make up 35 percent, city governments need the cooperation of all migrants in city projects such as public health or public safety. Without the cooperation of undocumented people, departments that do this work cannot obtain the information they need to effectively keep the city healthy or safe. For example, if nurses at public hospitals report people who come in for medical services to immigration authorities, other migrants will quickly see the hospital as an extension of the immigration enforcement regime, and stay home sick. This will potentially lead to illness spreading to other city residents and creating a community-wide problem for the local public health department. This situation stops the nurse from being able to treat the sick person initially, it diverts the nurse's city-paid time while the nurse calls immigration authorities and holds the patient for transfer of custody, and it shifts the nurse's caseload in that time period to other nurses. Furthermore, the nurse must spend more time treating more people who have become more seriously ill as a result of them staying home in fear of the hospital participating in deportation processes. This also limits the Department of Public Health's ability to know the true extent of people staying at home sick, where they are, or what their true needs are. Finally, with fewer people coming into the hospital, a needs assessment by the city or county will falsely assume that there is less medical need, and as a result the department budget may be reduced to meet that lower service provision target. This can

ultimately lead to the nurse losing her job as the city thinks fewer nurses are needed to treat fewer patients.

In response, most major metropolitan US cities since the mid-1980s have enacted sanctuary city policies—which prohibit city and county employees from expending employee time and municipal resources enforcing federal immigration laws, detaining individuals, asking about immigration status, or communicating information about suspected undocumented people to federal authorities for the purpose of immigration enforcement, except in specific limited circumstances. This institutional framework was first created by the sanctuary movement of the 1980s and formalized through the migrant rights community working in coordination with local policy makers and city government department executives to ensure implementation and enforcement.[1]

This policy framework allows the government to provide all residents health services, public works assistance, housing benefits, social benefits, business licenses, and city identification cards, among many other services, and to maintain their personal data—for instance their home address and phone number—in a manner that attempts to minimize the ability of other agencies to obtain and use that information for immigration enforcement purposes. This also allows all people regardless of immigration status to report fires, public health emergencies, crimes in progress, or spilled chemicals in the street, for example, without city agents asking them about their immigration status. It also allows them to pay parking tickets, obtain property information, use public transportation, and even pick up their families from flights at the airport, among the thousands of other tasks that a citizen might do in a municipal government setting. Through the implementation of these policies and the protocols derived from them, city departments have figured out best practices for working with undocumented people to obtain information from them that is vital to solving crimes, controlling public health crises, extinguishing fires, and educating children who may in the future enter the city's workforce. This also allows undocumented people to participate in local politics, to engage elected officials on policy initiatives, and to take part in city life with less fear of deportation.

The ultimate goal of enacting a sanctuary city regulatory regime is frequently stated by city officials and migrant advocates as regulating municipal government practices so that it may mitigate the fear, foster the trust, and serve a unique subject population—"all residents regardless of immigration status"—so that the municipal government can function effectively and meet its internal departmental goals despite federal desires for assistance. As a result, sanctuary city policies prevent the vast majority of incidents when city employees might initiate deportation processes that would ensnare undocumented people that a municipality serves. This, however, is impossible to accurately quantify given that sanctuary cities do not ask about immigration status and therefore cannot

document the total number of undocumented people whom they provide certain services to without assisting in deporting them.

Focusing just on the effect of sanctuary city "detainer policies" that require local law enforcement to deny requests from ICE officers to detain migrants in local jails or to share jail detainee release date information unless they meet certain requirements, the efficacy of such policies is remarkable. According to ICE data compiled by Syracuse University's Transactional Records Access Clearinghouse program, from October 2011 when detainer policies were first created and passed in localities through March 2017 when ICE stopped making their data available to the public, 1,087,958 ICE detainers were refused by local law enforcement agencies.[2] This shows that sanctuary policies, which are much broader than mere detainer policies, significantly reduce the number of city-assisted deportations that ICE desires. They further prohibit city and county employees from taking action to help deport people even when ICE has not requested such assistance.

However, while immigration lawyers and organizers in the immigrant rights movement first draft sanctuary policies as zero-cooperation policies, through negotiations during the legislative process, moderate Democrats, Republicans, mayors, and conservative law enforcement management in city government, in communication with ICE regional directors, force exceptions into these policies that allow limited assistance in deportations. Such exceptions, also referred to in legislative circles as "carve-outs," pertain to instances when sanctuary city legislators find voluntarily (non–legally required) city assistance to immigration authorities to be useful for municipal goals. In these circumstances, a sanctuary city will use the federal deportation regime for their own local purposes to remove their own residents from the city. These instances of selective extralegal cooperation always pertain to removing people who have been booked, charged, or convicted of certain crimes. Sanctuary city policies almost always include provisions mandating cooperation with federal immigration enforcement to ensure that certain "criminals" are not "shielded" or "protected" from deportation thereby disallowing them to stay in the municipal jurisdiction. In this manner, sanctuary city politicians use sanctuary city as a justification for helping deport certain people who have been suspected of crimes to contradictorily "safeguard the sanctuary city."

As a result of such exceptions to San Francisco's sanctuary policy, since 1993 the San Francisco Police Department (SFPD) and Sheriff's Department were by the tenets of the sanctuary policy required to report suspected undocumented adults booked or convicted of certain felony-level crimes and certain misdemeanor drug crimes to ICE and transfer them to ICE custody. Then later, from 2007 to 2010, the Juvenile Probation Department, under the direction of then-mayor Gavin Newsom, interpreted these carve-outs pertaining to adults to apply to juveniles, and reported hundreds of undocumented youth who were

booked on felony-level "petitions" (the juvenile court version of "charges") to ICE and transferred them to ICE custody. To do this, these departments elaborated specific, detailed department protocols for particular department job classifications on when to ask questions about immigration status, how to notify ICE, how to interact with ICE agents, how to provide them access to detainees, and how to transfer custody from city agents to ICE agents in a manner consistent with department and city policy.

Sanctuary city policies with carve-outs serve to set up, clarify, enforce, rationalize, justify, sanctify, and normalize municipal deportation assistance protocols in circumstances when they contend it is appropriate for city employees to cooperate with immigration authorities. Such official and routine deportation-assistance protocols may not have been designed by the municipality had it not adopted a sanctuary city policy. City employees may still have received requests from ICE and responded as they or their superiors saw fit, figuring out what to do in a particular moment. However, defining appropriate procedure through policy bureaucratizes and systematizes the activity, making that authorized behavior universal rather than localized in a particular instance or in the momentary choices of individual workers. It also allows sanctuary city workers to initiate deportation processes prior to ICE even making a request for assistance as was the case when San Francisco juvenile probation officers began to proactively call ICE about undocumented kids booked on felonies in their custody in 2007 in compliance with their department sanctuary policy. Sanctuary city policies themselves then perpetuate the notion that people accused of crimes are not deserving of government services and are deserving of deportation, and that deportations they facilitate will reduce or prevent future crime. Furthermore, they mobilize the resources of the city in the name of sanctuary around the modicum of public safety—that migrants should cooperate with the police to fight crime and that more policing makes a city safer—which is ultimately a buttress for militarized law enforcement agencies whose legitimacy remains intact while they terrorize the same black and brown communities where immigrants live.

In addition to this allowable immigration enforcement assistance, sanctuary policies also allow for considerable cooperation with immigration authorities when local workers are not enforcing civil immigration law but rather carrying out their own department objectives. For instance, the SFPD general order on immigration enforcement, which is in compliance with the citywide sanctuary city ordinance, forbids police assistance to ICE for local police activities that solely enforce *civil* immigration law. At the same time, this general order allows police to go on immigration raids with ICE if they are targeting immigrants who could also be tried on *criminal* charges or who have weapons with which they could threaten ICE officers. Sanctuary policies also allow for city assistance to ICE when ICE produces legal documents forcing compliance, for instance,

a judicial warrant for the arrest of a particular person or for information on a particular person in SFPD or sheriff custody.

Last, sanctuary city policies include provisions that allow city employees to use citizenship status questions in some benefits eligibility questionnaires when providing residents government services so as to determine whether they are eligible for federal funding or not, and therefore whether the city should pay for the services provided. In some cases, this involves city employees documenting immigration status and sending that information to federal immigration agencies like US Citizenship and Immigration Services. However, in most cases, sanctuary power *avoids* citizenship, holding it as a trace in city government-migrant interactions—that is, a real object of thought that government workers must work around in order to serve immigrants—without rendering it inoperable.

For all of these reasons, the sanctuary city municipal regulatory regime can best be described as a limited municipal-immigration enforcement cooperation apparatus—a more moderate cousin to the kind of policy framework set up by the anti-sanctuary Arizona state law SB 1070 that gives local law enforcement in Arizona broad abilities to assist ICE in immigration enforcement.

Sanctuary Cities and Resistance to Bordering Practices

Most accounts in the academic literature and the media portray sanctuary practice as antithetical to the function of government, as the weakening of the federal sovereign power to decide who may legally remain in a territory, as something that produces outside-of-governance spaces lacking government oversight, or as some form of resistance to federal power in general. Academics have argued theoretically that sanctuary jurisdictions open up a political space where undocumented people can fight to produce a form of urban citizenship that is oppositional to federal citizenship regimes.[3] Such an argument builds from the analytics of Giorgio Agamben, who describes sovereign practices of the state that strip certain populations of their rights and hold them as outsiders excluded from membership in the nation (and excluded from the legal protections that membership affords) in order to define the boundaries of the state and membership within it.[4] Such practices of sovereignty, for Agamben, demarcate within the nation-state "zones of indistinction" or "states of exception" where normal legal and juridical protections provided through citizenship do not apply.[5] In a sense, these noncitizens are held in "inclusive exclusion"—held in a territory by the sovereign but excluded from having a rights-bearing political status for the purpose of drawing the boundaries of the state and defining who its rightful subjects are in perpetuity. In some cases people are held in isolation apart from society.

Aihwa Ong and Mae Ngai have argued that the practices of exclusion and border maintenance are built into everyday life, even throughout the interior of

a state, through the dividing, separating, organizing, and categorizing practices of employers, social service providers, local police, and private citizens in their engagement with undocumented people.[6] These bordering practices localize federal immigration enforcement and reproduce migrant illegality.[7] These practices deny undocumented people full access to the nation and the rights and benefits it bestows, hold them outside of the law, and expose them to indeterminate detention, deportation, separation from their families, and even death in detention or in their home countries.

Building from this theoretical frame, academic accounts of sanctuary city policy posit the sanctuary city as being used by migrants and their advocates as a space of refusal that can counter the federal government's production of migrant illegality, loosen the grip of the federal government on the lives of undocumented people, thwart their incorporation into the deportation regime, and weaken the authority of the federal government to define the conditions of political membership in society.[8] The outcome of the struggles over sanctuary city policies, following this line of scholarship, is not only that social relations are transformed, but also that the notion of citizenship itself is affected.[9] Furthermore, scholars argue that alternative ideas of citizenship take form along the lines of what Bosniak has called "ethical territoriality"—the claim that all people within a territorial space should have equal rights and access to governmental services and benefits regardless of their citizenship status.[10] The argument follows then that municipal sanctuary disrupts the federal government's assertions to institute border-making practices at the local level and thereby disrupts the sovereign practice of producing the exception through migrant illegality. It establishes spaces outside the realm of ordinary existence where emergent norms and ideals of legality and political belonging can be asserted. Sanctuary is thus in most academic accounts a strategic form of territoriality in the sense that it draws on and establishes moral authority, meaning, and control over spaces where alternative forms of political belonging can be nurtured.[11]

However, this frame of resistance to nation, border, citizenship, and sovereignty fails to acknowledge the manifold manners in which, at the level of practices and human interaction, sanctuary cities reinforce the state by shedding light on undocumented people's lives, making them knowable by the municipal government as well as the federal government, and garnering their participation in governmental projects. Sanctuary cities do not create space outside of federal governance for immigrants to demand rights—the federalist system already provides the legal possibility for sanctuary city policies and the spaces they create. In other words, that space is just as governed as other space in the nation-state, filled with its existing borders and everyday bordering practices that allow for a separation of duties at the municipal, state, and federal levels without disruption. To assume otherwise concedes to the right's argument that sanctuary cities are illegal and that they harbor migrants, or to the notion that

sanctuary city policy is some sort of governmental civil disobedience. Political scientist Els de Graauw argues that sanctuary cities like San Francisco "are still subservient to the real and lasting power of the federal government and that advances in local membership rights and benefits for noncitizen immigrants do not happen in a policy or political vacuum, but instead result from federalist dynamics where cities must test and negotiate their discretionary administrative powers with the federal government's exclusive power over both immigration and citizenship policy."[12] While it might seem that resistance to bordering practices must begin from actions that open an "other" space not riddled with borders, an ungoverned or loosely governed space, sanctuary power in sanctuary cities in the United States is primarily a form of *institutional* resistance fostered by the municipal-state-federal system as a sort of check and balance or internal criticism pushing the system to work more effectively in terms of cities providing city services while federal deportations occur. It is, however, focused on a limited set of bordering practices that the federal government would like to inscribe further in local agency interactions with the public.

While sanctuary policies ultimately do not disrupt the existing national governance framework or even independent ICE activities like home raids or workplace employment document (I-9) audits, they do disrupt the ICE tactics of incorporating additional city employees beyond the legal requirement in mass dragnet deportation programs like ICE's Secure Communities program. From 2008 to 2015, the Bush and Obama administrations implemented Secure Communities, also known as S-Comm, which forced local police to automatically share all fingerprints of people booked in local jails with ICE by mandating the use of fingerprint-sharing technologies. ICE then asked local law enforcement to detain people for up to two days after they would otherwise be released until ICE could come to the local detention facility and obtain custody of the individual. In most of the country, even in sanctuary cities, law enforcement interpreted ICE requests as legal mandates and cooperated at high rates. However, these requests were actually for voluntary assistance and were not legally mandated, and the detentions that ICE was requesting of local law enforcement were being made without any judicial ruling of probable cause that the person was undocumented. Various courts then ruled that the detentions were unconstitutional. Sanctuary cities and many previously non–sanctuary cities set policy to limit cooperation with such detentions and custody transfers only for people convicted of (not just booked on) certain very serious crimes. These "detainer" policies that were passed throughout the country were passed not only to help immigrants, but more likely to minimize the legal liability of unconstitutionally detaining people and transferring them to ICE custody.

The Obama administration then changed its request for local law enforcement. The administration no longer requested law enforcement to detain people, but merely to send information on when individuals would be released from

their criminal charge-related detention. This would allow ICE to arrive for their release from jails and arrest them outside of the local facility with no unconstitutional jail detention or official transfer of custody presenting legal liability for local law enforcement. Sanctuary cities then clarified or extended their policies on limiting immigration-related detention to the sharing of release information with ICE as well. The fingerprint-sharing technologies mandated through S-Comm still exist in sanctuary city police stations today, and sanctuary cities still send all fingerprints of everyone booked in police stations and jails, regardless of the severity of the crime or whether the person is found guilty of the crime, to ICE.

Sanctuary cities not only disrupt the functionality of programs like Secure Communities but also challenge the legitimacy of these types of deportation programs that Republican politicians, Fox News, and Breitbart News tell the Republican base are how immigration enforcement *should* be carried out. Sanctuary practices of declining to assist in the sharing of any and all information with ICE resist the narrative that city employees *should* participate in immigration enforcement. However, whenever a federal mass deportation plan hinges on the participation of city employees, as in the case of Secure Communities, sanctuary policy, and the guiding strategy of this type of city governance, intervenes and disrupts the implementation of that federal plan and the bordering practices it seeks to impose on city government. It disrupts the commandeering of city budgets and human resources by the federal government for immigration enforcement. It resists the federal government's attempts to integrate federal immigration enforcement into every facet of city, county, and state government agencies that deal with the public. However, these disruptive practices do not create a zone of loosened federal governance, a space where migrants might disrupt the enactment of citizenship regimes or create forms of insurgent citizenship, or spaces where national borders are eroded. Sanctuary policies allow for these federal systems of control and border making to operate within the jurisdiction of the city, even within some areas of the city government, albeit "in their lane."

Sanctuary Power: Governmental Strategy for a Borderless World

For the discussion of a world of free movement that this book advances, sanctuary cities and sanctuary power provide a model of governmental service and benefits provision that does not rely on citizenship. Furthermore, this model does not exclude or eject most people from the territory on the basis of their citizenship status or nationality. While sanctuary power currently acknowledges federal bordering practices, and in some cases even facilitates deportations, it could also function in a world without borders and without participating in any

deportations. The sanctuary governance style has developed over thirty years so that the city employees in nearly every city agency largely do not care where city service seekers came from, how they arrived in a city, how long they have been in the city, whether they are at risk of deportation, whether they show a commitment to remain, or, for example, whether they make a dedication to military service. They largely find immigration status irrelevant to their work. In other words, sanctuary cities do not rely on nation-states to sanction the presence of individuals seeking government services or to fund those services.

While current sanctuary jurisdictions do not dismantle borders or stop all deportations in a city, they do demonstrate how government could operate if citizenship and borders did not exist. Current sanctuary cities are productive in that they produce protocols and practices for all city agencies and departments, not only law enforcement, to provide regular city services to all city residents and visitors regardless of immigration status. For example, the 311 call center in San Francisco—a government service akin to 911 that assists people seeking nonemergency municipal government services—has designed a script for fielding calls in which people ask about immigration legal assistance in the wake of an immigration raid in a way that does not seek to ascertain the immigration status of the individual seeking assistance. In San Francisco, such protocols exist for all agencies that interact with the public such as the Fire Department, the Department of Public Health, the Department of Public Works, the City Assessor, the District Attorney's Office, the Public Defender, the Department of Parking and Traffic, the Municipal Transit Agency, and the International Airport. City managers and supervisors, in coordination with migrant rights lawyers and trainers, create these kinds of protocols, department-specific policies, and training modules so all employees can interact with immigrants without immigration status getting in the way of doing their city work.

I do not advocate, however, the multiplication of sanctuary policies as currently constructed as a step toward an open borders or borderless world—they currently maintain the border-filled world in some of the most capital-intensive cities in the United States where undocumented immigrants are exploited as disposable workers. If they are used tactically to transition to a borderless world, they will serve to stem the massive tidal wave of deportations that would have occurred *due to city assistance*, but the expansion of sanctuary cities with carve-outs for people who have been booked for certain crimes serves to paradoxically fortify the connection of municipal government to the federal deportation regime by outlining how exactly city agents assist ICE in deporting people.

If, however, sanctuary policies were stripped of their exceptions and jurisdictions took a zero-cooperation approach at both the city and state levels—that is, if they amended their policies so that they would not participate in any voluntary assistance to ICE including for people with criminal bookings—it

would significantly transform how government works in American cities and states and could immensely disrupt the manner in which the federal government extends bordering practices into local government processes. Ultimately, this would not serve as the technology used by anti-border revolutionaries to create a borderless world. However, it could serve as a starting place for thinking through what a truly revolutionary "dual power" model of government could look like. That is, it could provide insights into what a new form of government could look like that competes with the current nation-state-based international system, renders it obsolete, and serves as a node of social organization within the social revolution against the current system. The spread of zero-cooperation sanctuary cities would obviously be a social transformation out of the iron grip of institutional bureaucracy, but this could occur only when massive popular movements, including the labor unions that represent city and county government workers, amassed enough power to push their politicians to adopt zero-assistance sanctuary policies.

This kind of governance model if applied by localities throughout a borderless world could have a potentially powerful ability to more completely manage and control populations. By this I mean governments, through the inclusion of a broader group of constituents that includes "all residents," not merely people with legal status, could better manage the vast provision of social goods to sustain populations, collect and share information they need from their entire subject population, and minimize border violence that nationalists often justify as the protection of the governmental benefits for citizens alone. However, such a model of greater and more thorough governance could also be wielded for the more thorough social control and repression of populations and a more pervasive and difficult to dislodge humanitarian ideological hold on people. It could also pose a challenge for popular movements to address systemic discrimination, including racism, perpetuated by the government, as the government could stand behind a veneer of moral authority—that their city is a sanctuary city and that discrimination in such a place does not exist. In this sense, sanctuary governance can be used as a model for borderless governance, but it is not a safe space outside of governance, space outside of the state, or space of safety from violence and repression of the state. This would open not a space of liberation free from governance, but one with a new set of limitations, a new set of repression practices, and a new set of liberties.

This model of sanctuary power within the context of a borderless world does not grant "global citizenship" to all people or require the administration of such citizenship by a "global government." This is a project not to "regularize" everyone's immigration status, but rather to render all forms of citizenship and immigration status useless, as citizenship in a sanctuary power setting would not confer any special rights to anyone over those without citizenship. The reason why this distinction is important is that governments that grant citizenship can also

revoke it, and so would be the case with a global citizenship regime. If global citizenship were to ever be revoked from certain individuals, they could be denied government assistance and rights, including the right to exist. Sanctuary power without carve-outs or citizenship in a borderless world on the contrary would operationalize the government of people with no citizenship status everywhere.

To arrive at a borderless world where sanctuary governance is implemented will paradoxically require a rejection of the politics of paternalism and "protection" or "harboring" that motivates sanctuary activism. A politics of paternalism where sanctuary seekers become indebted to a privileged host who protects them and who could revoke that protection at any moment poses a problem for a politics of egalitarianism and the right to self-determination that makes fighting for a borderless world worth it. This also poses problems for borderless government service provision for all that bends far beyond providing services only for deserving "noncriminals" or any other group that is deemed less worthy. This fetishization of the safety of sanctuary cities that results from this form of politics, as some have pointed out, leads immigrant activists to rely on the discourse that the repressive police state works well when all are cooperating with it. As long as there are nation-states that make use of citizenship to deny access to governed spaces, public benefits, and political representation and that use deportation forces like ICE to deport en masse, there will be no real sanctuary for anyone anywhere. The solution is not for citizens to protect undocumented people with sanctuary cities, but rather to make governance systems that are not exclusionary on the basis of the nation and citizenship. Only a social revolution against the organization of societies into nations globally, the imposition of the legal technology of citizenship on people, the symbolic and material construction of borders, and the deportation forces and minute bordering practices of everyday live that police all of these will a better society be formed to govern us all differently.

The argument I have put forward in this chapter is that sanctuary cities are not the safe havens their name indicates or that conservatives and liberals alike believe is a space of unflinching resistance to federal power. Sanctuary cities are rather an extension of a bordered world with benefits and risks we can both learn from and rebel against. Sanctuary power (not the current sanctuary city policy framework or implementation of that framework) allows us to imagine a model of governmental service provision that could potentially function without citizenship and national borders. As activists and politicians expand the scope, complexity, domain, and ideal vision of sanctuary cities, we will also continue to imagine new models of borderless governance. Embracing sanctuary power in a borderless world is embracing not a set of tools and technologies of liberation but rather tools of governance that people of the future should constantly critique and, if needed, fight to break free from. Freedom and governance will always be a constant struggle.

NOTES

1. Peter Mancina, "The Birth of a Sanctuary City: A History of Governmental Sanctuary in San Francisco," in *Sanctuary Practices in International Perspectives: Migration, Citizenship and Social Movements*, ed. Randy Lippert and Sean Rehaag (London: Routledge, 2013), 205–18; Mancina, "In the Spirit of Sanctuary: Sanctuary City Policy Advocacy and the Production of Sanctuary-Power in San Francisco, California" (PhD diss., Vanderbilt University, 2016).

2. Transactional Records Access Clearinghouse (TRAC), "Tracking Immigration and Customs Enforcement Detainers, ICE Data through March 2017" (Syracuse University, 2017).

3. Jennifer Ridgley, "Cities of Refuge: Citizenship, Legality, and Exception in U.S. Sanctuary Cities" (PhD diss., University of Toronto, 2010).

4. Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Stanford, Calif.: Stanford University Press, 1998).

5. Giorgio Agamben, *State of Exception* (Chicago: University of Chicago Press, 2005).

6. Aihwa Ong, *Buddha Is Hiding: Refugees, Citizenship, the New America* (Berkeley: University of California Press, 2003); Mae Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton, N.J.: Princeton University Press, 2004).

7. Nicholas De Genova, "Migrant 'Illegality' and Deportability in Everyday Life," *Annual Review of Anthropology* 31 (2002): 419–47; Nicholas De Genova, *Working the Boundaries: Race, Space, and "Illegality" in Mexican Chicago* (Durham, N.C.: Duke University Press, 2005).

8. Ridgley, "Cities of Refuge."

9. James Holston and Arjun Appadurai, "Cities and Citizenship," *Public Culture* 8 (1996): 187–204.

10. Linda Bosniak, "Being Here: Ethical Territoriality and the Rights of Immigrants," *Theoretical Inquiries in Law* 8, no. 2 (2007): 389–411.

11. Ridgley, "Cities of Refuge," 144.

12. Els de Graauw, "Municipal ID Cards for Undocumented Immigrants: Local Bureaucratic Membership in a Federal System," *Politics & Society* 42, no. 3 (2014): 315.

CONCLUSION

In Defense of Free Movement

REECE JONES

Movement is a fundamental human right. This fact is already enshrined in the UN Universal Declaration of Human Rights but for now is limited by the right of states to restrict movement of noncitizens into their territory. The purpose of this book is to disrupt the normalcy of borders, passports, and citizenship that justify the odd idea that the right to freedom of movement should stop at the border. Just as the ugly border fence that marks the US-Mexico border at Border Field State Park fades into the background as a seemingly normal part of the landscape, the violent exclusions of movement restrictions at borders fade into the background as a seemingly normal part of how the world works. Migration restrictions are not a natural or normal state of affairs: they are a new system of exclusion that violently protects wealth and privilege by hiding behind the veneer of the law.

Several of the contributors to this book conclude their chapters with some variation on the argument that the time for discussion of the economic, political, or moral consequences of closed borders is over and we'll "see you in the streets." The book was completed in the months after Donald Trump assumed the presidency of the United States, and it turned out that many people were indeed in the streets protesting migration restrictions in the United States and around the world. As President Trump signed executive orders in his first weeks in office that followed through, in word if not in deed, on many of his campaign promises to close borders to movement and trade, protests emerged across the United States and the world. President Trump canceled the Trans-Pacific Partnership, ordered the construction of a wall on the US-Mexico border, and instituted a temporary ban on all refugees and migration from seven, then six, predominately Muslim countries. In response, protesters rushed to airports to rally against the border closures and the hashtag #NoBanNoWall was used across social media. Eventually a number of federal courts put stays on the travel ban as the legality of it was sorted out.

As a scholar who has long advocated for open borders, I was thrilled that the previously lonely position was now gaining more attention. At the same

time, I was confused as to why so many people were concerned with this issue now. Beyond the bombastic racist nationalism of Donald Trump, why did these particular limits on movement rile people up in a way that much more extensive and restrictive migration bans—which have been in place for decades—did not?

Both the executive order on the wall and the immigration ban only expanded or altered what had been US policy for generations. Neither were new ideas or radical revisions to the way US borders fundamentally work. The executive order on the border wall, signed on January 25, 2017, called for an expansion of the border wall that was already authorized in the Secure Fence Act (SFA), which passed congress in 2006 with bipartisan support. In the Senate the vote was eighty to nineteen in favor, with then-senators Barack Obama, Hillary Clinton, Joe Biden, and Chuck Schumer voting in favor. The SFA called for 700 miles of fencing on the US-Mexico border, and 670 were built by 2010. Consequently, although Trump's public statements were more aggressive and pro-wall, the executive order simply continues and expands the already existing policy that was passed with bipartisan support during the Bush administration and was largely carried out by the Obama administration.

The travel ban resulted in more outrage, but it is an even more incremental change in policy. President Trump's executive orders on migration banned refugees and residents of seven, then six, predominantly Muslim countries from entering the United States for ninety days. It also reduced the US annual refugee quota to 55,000, down from 110,000 in President Obama's final year, but close to the historical norm of 70,000 that had been maintained by George W. Bush and during Obama's first seven years in office. Of course the blatant racism of the order was appalling to many because these new restrictions were seen in the light of Trump's campaign promise of "a total and complete shutdown on Muslims entering the United States,"[1] but the reality is that they are in line with a long history of immigration policy in the United States.

Starting with the Page and Chinese Exclusion Acts of 1875 and 1882, the United States has had migration restrictions that have the effect of banning particular groups of people from entering the country.[2] Since the 1965 revision to the 1952 Immigration and Nationality Act, the United States has prioritized family reunifications for immigration visas. Anyone else who wants to travel to the country for business or tourism must demonstrate that they have the resources to pay for their trip and significant ties to their home country that would prevent them from overstaying their temporary visa. Consequently, for decades, the majority of residents from the seven countries listed in the first ban (Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen) and from other poor countries around the world were already effectively banned from the United States. In 2015, 64 percent of visa applications from residents of Somalia were denied, as were 63 percent from Syria and 54 percent from Yemen (see table Concl.1). Only Gambia and Laos, at 75.64 and 66.68 percent, respectively, have higher visa refusal rates.

TABLE CONCL.1. Data on Seven Countries Covered by Trump's First Executive Order on Migration

Country	Visa Refusal Rate (2015; percentage)	I-94 Arrivals (2015)	Population (2015)
Iran	38.55	35,266	79,109,270
Iraq	52.82	21,381	36,423,390
Libya	43.02	2879	6,278,440
Somalia	64.06	359	10,787,100
Sudan	40.45	4792	40,234,880
Syria	63.43	16,010	18,502,410
Yemen	54.01	5549	26,832,220

Visa refusal rates, total number of visitors to the United States, and population of the seven countries whose citizens would be prevented from entering the United States by President Trump's executive order on immigration.
SOURCE: Data from Customs and Border Protection and the World Bank.

Furthermore, these rejection rates represent only the wealthiest and most educated individuals from these countries who had the means to travel to the embassy, fill out the application in English, and pay the application fee. The vast majority of the poor of the world are unable to even apply for these visas. If they did, the rejection rates would be far higher. The US case is not unique; all of the wealthy countries around the world have similar migration restrictions.

In 2015, fewer than a hundred thousand people *total* from the seven countries on Trump's first executive order visited the United States with an I-94 (nonimmigrant) visa. That represents only 0.05 percent of the total population of 178 million people in those seven countries. By comparison, roughly 1.5 percent of a typical country that is part of the visa waiver system travel to the United States every year.[3] If we assume that the same percentage of people from the seven countries would visit the United States if they were able, 2.6 million people per year were already "banned" prior to Trump's order.

Therefore, the protesters who went to the barricades in January 2017 did so to ensure that the rich elite of these seven countries can still visit the United States since the poor have been banned for decades. Nevertheless, the fact that many people took to the streets in support of free movement represents a turning point. The extreme language of Donald Trump created an opportunity for a broader reconsideration of borders and migration, which would have never occurred under a Hillary Clinton administration. As many people have now opened their eyes to the ugly reality of movement restrictions at borders, it is time to focus that attention on the larger system of exclusion that has been in place for decades but hidden behind the guise of an orderly and fair legal system of passports, visas, and citizenship.

Toward Freedom of Movement

The contributors to this book approach the idea of open borders from different ideological and philosophical positions, but they are in agreement that movement restrictions at borders are an unjust system that infringes on the fundamental rights of other human beings based simply on their place of birth. Some suggest maintaining states and borders and allowing free movement between them, while others go further in arguing for a world without borders and states.

Allowing free movement would not solve every problem in the world—far from it. Wealthy, privileged societies have many internal problems, as the "houseless" situation in my hometown of Honolulu and the scourge of US gun violence attest. Much of the work of borders happens away from the line itself where differential systems of access and status exclude people who have succeed in migrating. As Nandita Sharma and Jenna Loyd's chapters demonstrated, categories of class, criminal, race, nation, and native represent additional boundaries to participation within a particular political community, often mediated through different degrees of citizenship.

Despite these caveats, opening borders to free movement would have some immediate positive impacts. First, people on the move would no longer be forced to take dangerous routes through the deserts of the US Southwest or on an unseaworthy raft in the Mediterranean to reach their destination. The thousands of dollars that today go to smugglers could instead be spent on regular transportation, which would contribute to the formal economy. The more than eight thousand deaths at borders in 2016 would disappear overnight. Second, as Joseph Nevins suggested in chapter 7, open borders would be a simple way to redress historical wrongs of colonialism and economic exploitation by allowing the poor to seek better wages elsewhere and then remit those funds back to their homes. Third, open borders would encourage more circular labor migration rather than the permanent migration that is often the only option when border controls are hardened. Fourth, economic models suggest free movement would have a significant impact of the GDP of the entire world, benefiting wealthy and poor countries alike. Fifth, the billions of dollars spent today on border infrastructure could be repurposed to other areas such as social programs, schools, or even—not my preference—security spending that actually impacts terror networks, not the poor.

So how do we get from here—a world of expanding border walls, resurgent nationalism in many wealthy countries, and bans on travel for the majority of the people in the world—to there, a borderless world of free movement? The first step is to stop demonizing people who move in violation of unjust laws.[4] This means contesting the dehumanization of people on the move through the use of terms like "illegals," "cockroaches," "termites," and "widgets" that make

movement seem wrong, threatening, or illicit.[5] In chapter 2, Michael Huemer made the theoretical case that people are under no moral obligation to abide by unjust laws that protect privileges through restrictions on movement. Indeed, most forms of oppression in the past have been legal at the time they were carried out. In the United States slavery was legal and included in the original Constitution. Segregation, the Jim Crow regime, and the denial of the vote to women were all legal. Deep injustices are almost always couched in the legitimacy of the law to provide a bulwark against activists who question their moral or ethical legitimacy.

Although many people do uncritically accept the legal regime of borders, passports, and citizenship, it is important to emphasize that millions of others have already disregarded them.[6] At this very moment, there are millions of people on the move around the world who have ignored borders and left their homes in search of better opportunities elsewhere. This includes the sixty-five million people displaced by conflict around the world and the millions more who are moving due to economic, environmental, or political problems. These everyday refusals to abide by borders—even after many have been heavily fortified in recent decades—demonstrate cracks in the idea of the bounded nation-state.

Many of the chapters of this book suggest ideas for how people already in wealthy countries can join the struggle against movement restrictions, while also maintaining awareness of the inequalities that are often reproduced in these efforts (as described by Natasha King in chapter 13). In chapter 5, Jenna Loyd pointed to the parallels with the slavery abolitionist movement in the past. In chapter 1, Thomas Nail suggested that many of the same tactics are called for today: solidarity, sanctuary, and status. These goals can be achieved through aggressive legal and political challenges to the current unjust regime to change it from the inside.

Solidarity can take multiple forms: taking to the streets to march against migration bans or deportation orders, speaking out against movement restrictions in the media, writing opinion pieces and letters to elected officials, and providing assistance to people moving through migration corridors. The chapters in this book documented many of these efforts. Chapter 8 by Polly Pallister-Wilkins considered the role Médecins Sans Frontières is playing in humanitarian rescue in the Mediterranean. In 2016, NGO aid ships made almost 20 percent of the rescues.[7] Chapter 12 by Andrew Burridge demonstrated how the need for solidarity extends into destination countries as state reporting requirements become burdens and sites for further policing. Chapter 13 by Natasha King described Calais Migrant Solidarity's work to provide refuge for people attempting to cross the English Channel to the United Kingdom, chapter 14 detailed the work of No Borders Morocco to assist people on the move in North Africa, and chapter 15 highlighted the resistance by Semillas Autónomas to the US-Mexico

border regime. There are many more similar groups, both organized and loose collectives: No More Deaths works along the US-Mexico border providing water stations to help people on the move survive the arduous crossing through the deserts of the US Southwest; Watch the Med and Alarm Phone provide resources for people on the move to Europe; No One Is Illegal and the *sans-papiers* movement provide assistance to people without documents in destination countries. Collectively, these individuals and organizations highlight the economic, environmental, and social consequences of border restrictions and walls and actively take steps to ameliorate them by contesting the idea that the state can restrict the movement of other human beings at borders.

Another direct action to resist migration restrictions is to provide sanctuary to people on the move from prosecution under unjust laws. The Underground Railroad provided sanctuary for escaped slaves moving clandestinely to safe places, and today there is an obligation to provide sanctuary to people on the move evading the bondage of borders. Around the world, dozens of cities, counties, and four US states—California, Connecticut, New Mexico, and Colorado—already refuse to assist the federal government in identifying and removing people without documents. As Peter Mancina described in chapter 16, sanctuary cities and states demonstrate how action against movement restrictions can take place at multiple scales and within the already existing system of states, not in direct opposition to it. Another form of sanctuary is resettlement sponsorship arrangements that use a position of privilege to bring more people to places of safety. These acts of resistance provide short-term protections and work-arounds as the longer term goal of freedom of movement is pursued.

The third direct action is to use the legislative and judicial realm of the current system to work toward freedom of movement. There is already evidence that pressure on lawmakers through constituent communications and protests in the streets can have an effect. For example, in 2006 US senator Chuck Schumer voted for the SFA that authorized the construction of 670 miles of walls and fences on the US-Mexico border. In 2017, after protests against the ban and the wall, Senator Schumer threatened to block any budget bill that included funding for a wall, going as far as suggesting a government shutdown over the issue. He released a statement on March 12, 2017: "The border wall is impractical and unpopular, a pointless burden that this administration is trying to pay for by taking money away from the programs that actually keep Americans safe."[8] Protests that demonstrate to politicians that something is unpopular work and can sway officials to make different decisions in the future.

One concrete goal to further freedom of movement is to campaign for a revision to the Universal Declaration of Human Rights. It already includes clear statements about the right to movement within a country, out of any country, and into one's country of citizenship. As many others have pointed out, there

is not a logical reason that freedom of movement inside a country should be a fundamental right, but movement between countries should not.[9]

The right to movement is already protected in the constitutions of individual countries. For example, the constitution of Ecuador recognizes a general right to migrate: "The right to migrate of persons is recognized. No human being shall be identified or considered as illegal because of his/her migratory status." What is needed is for the delegations of UN member states to take up the issue of revising the Universal Declaration of Human Rights to include universal movement. If the right to move were completely protected in the declaration, states would no longer be justified in violently preventing migration. Through this mechanism, the killing of civilians at borders through migration restrictions, which resulted in eight thousand deaths in 2016, would be elevated to the same status as other cross-border issues that rise above the individual sovereignty of states.

Finally, in addition to these incremental steps toward recognizing the right to move freely within the current regime of sovereign states, there is always the possibility of a more radical change: a world without states and borders. The blinders of presentism often make it hard to think outside the current situation, but the state is not a permanent political institution, as Nandita Sharma's chapter on the idea of the nation demonstrated. There was a not-so-distant past when other systems such as tribes and monarchies were the dominant political form. These once entrenched systems were replaced by the sovereign state, and there is nothing to suggest that in the future a new model of political organization could not replace the state. Indeed, Wendy Brown has argued that the turn to walls on a global scale is a reaction against the ebbing power of the state, as new configurations of authority challenge its primacy.[10] The mass movement of people globally who refuse to accept movement restrictions at borders suggests that this is a moment of transition when an older political order is ending and a new mode is beginning. Despite the fact that the antiglobal forces of racism and nationalism are currently on the march, cosmopolitans have argued that eventually everyone will recognize that we are one people, living in one world.[11] The state, which is predicated on the claim of absolute political authority in separate bordered containers, is ill suited to deal with a number of challenges that cross borders, from climate change to protecting human rights and managing the movement of people. As several contributors to this volume suggested, the most significant and permanent way to open borders is to have no borders or states at all.

Today the right of other human beings to move freely is severely restricted based on their birthplace and the desire of a wealthy minority to protect their privileged position economically, culturally, and politically. What will the world look like tomorrow? Regardless of whether you support open borders or no borders, one thing is clear: we should use our feet to move the world toward a better place.

NOTES

1. Fred Barbash, "Muslim Ban Language Suddenly Disappears from Trump Campaign Website after Spicer Questioned," *Washington Post*, May 9, 2017.

2. See Mae Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton, N.J.: Princeton University Press, 2003).

3. For example, 752,826 residents of Spain, a country that is part of the visa waiver program, visited the United States in 2015, representing 1.5 percent of the total population of 47 million.

4. Javier Hidalgo argues that people smuggling that "assists refugees in escaping threats to their rights can be morally justified." Hidalgo, "The Ethics of People Smuggling," *Journal of Global Ethics* 12, no. 3 (2016): 311–26.

5. On "illegals," see Robert Barsky, *Undocumented Immigrants in an Era of Arbitrary Law: The Plight of People Deemed Illegal* (London: Routledge, 2015). A column by Katie Hopkins in the *Sun* made the cockroach comparison but was later taken down. See John Plunkett, "'Katie Hopkins' Migrants Column Was in Bad Taste—but Ipso Doesn't Cover That," *Guardian*, July 28, 2016. Frank Gafney, an advisor to Donald Trump's campaign, said, "They essentially, like termites, hollow out the structure of the civil society and other institutions." See Simon Maloy, "Trump's War on Islam: The White House Is under the Sway of Anti-Muslim Extremists," *Salon*, February 2, 2017. George Borjas begins *We Wanted Workers* by comparing people to widgets crossing borders. Borjas, *We Wanted Workers: Unravelling the Immigration Narrative* (New York: Norton, 2016).

6. This is a key tenet of the autonomy of migration approach advocated by several authors in this book.

7. "Private Ships Play Big Role in Europe's Migrant Crisis," *The Local*, August 6, 2016.

8. Charles Schumer, press release, March 12, 2017.

9. Joseph Carens, *The Ethics of Immigration* (Oxford: Oxford University Press, 2013).

10. Wendy Brown, *Walled States, Waning Sovereignty* (Brooklyn: Zone Books, 2010).

11. Manfred Steger, *Globalization: A Very Short Introduction*, 3rd ed. (Oxford: Oxford University Press, 2013).

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